

ATTACHMENT C  
CITY PARKING AGREEMENT

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### City Parking Agreement

- The City Parking Agreement is a 20-year Agreement substantially between the City of Miami and the Team.
- The City is responsible for constructing the parking garages and surface lots around the baseball stadium site.
- The Agreement provides that approximately 5,500 to 6,000 parking spaces, both structured and in surface lots, will be constructed for Marlins baseball games and other events at the stadium.
- The preliminary budget for the parking garages and surface lots at approximately \$94 million. If that budget is insufficient to construct 5,500 spaces, the City will only be required to construct as many spaces as possible with the \$94 million.
- The parking plan continues to evolve and currently provides for 4 parking garages on the north and south sides of the stadium, and 6 surface lots on the east and west sides of the stadium, as shown in Exhibit A of this Agreement, on City-owned land that were formerly used as surface lots for Orange Bowl games.
- Preliminary plans call for approximately 60,000 sq. ft of commercial/retail space, and, approximately 26,000 sq. ft of residential space to be incorporated into the design of the parking garages.
- The Marlins will purchase all of the parking spaces for each baseball stadium home games from the City of Miami at a pre-determined price per space, which is detailed in Section 6.3 of this Agreement.

**CITY PARKING AGREEMENT**

**BY AND AMONG**

**THE CITY OF MIAMI,**

**MIAMI-DADE COUNTY**

**AND**

**MARLINS STADIUM OPERATOR, LLC**

**APRIL \_\_, 2009**

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## CITY PARKING AGREEMENT

This City Parking Agreement (this "Agreement") is made and entered into this 15<sup>th</sup> day of April, 2009 by and among the City of Miami, a municipal corporation of the State of Florida (the "City"), Marlins Stadium Operator, LLC, a Delaware limited liability company (the "Stadium Operator"), and solely for the purposes of the County Provisions (as defined in Article I), Miami-Dade County, a political subdivision of the State of Florida (the "County," and together with the City and the Stadium Operator, the "Parties").

### RECITALS

A. On March 3, 2008, the County, the City and Florida Marlins, L.P. executed a Baseball Stadium Agreement (the "BSA") outlining the general terms and conditions under which they would move forward to design, develop, construct and operate a Major League Baseball stadium and related parking facilities to be located on the Entire Site. (Capitalized terms used herein are defined in Article I.)

B. Contemporaneously with the execution of this Agreement: (i) the County, the City and the Stadium Developer are entering into the Construction Administration Agreement that provides for the design, development and construction of the Baseball Stadium and the Public Infrastructure (as defined in the Construction Administration Agreement), and (ii) the County, the City and the Stadium Operator are entering into the Operating Agreement that provides for the operation and management of the Baseball Stadium by the Stadium Operator once the Baseball Stadium has been constructed as provided in the Construction Administration Agreement.

C. This Agreement provides for the construction, operation and use of parking facilities to be made available to users of the Baseball Stadium.

NOW, THEREFORE, the Parties agree as follows:

### ARTICLE I

#### DEFINED TERMS

As used in this Agreement, the following terms have the following meanings:

"AAA" is defined in Section 10.1.

"Affiliate" means, with respect to any Person, another Person that directly or indirectly owns or controls, is owned or controlled by, or is under common control with such Person. For purposes of this definition, one Person owns another when it owns more than fifty percent (50%) of the equity interests in the other Person and one Person "controls" another when it has the right to exercise more than fifty percent (50%) of the voting power of the other Person.

"Applicable Law" means any applicable law, statute, code, ordinance, administrative order, charter, resolution, order, rule, regulation, judgment, decree, writ, injunction, franchise, permit or license, of any Governmental Authority having jurisdiction with respect to the Parking

Premises or to Persons or activities within the Parking Premises, now existing or hereafter enacted, adopted, promulgated, entered, or issued.

“Baseball Rules and Regulations” means each of the following as amended from time to time: (i) any present or future agreements applicable to the Major League Baseball Clubs generally, entered into by or on behalf of Major League Baseball, including, without limitation, the Major League Constitution, the Professional Baseball Agreement, the Major League Rules, the Interactive Media Rights Agreement, the Basic Agreement between the Major League Baseball Clubs and the Major League Baseball Players Association, and each agency agreement and any operating guidelines among Major League Baseball clubs and Major League Baseball; and (ii) any present and future mandates, rules, regulations, policies, interpretations, bulletins or directives issued or adopted by Major League Baseball applicable to Major League Baseball Clubs generally.

“Baseball Stadium” means the stadium being constructed on the Baseball Stadium Site pursuant to the Construction Administration Agreement.

“Baseball Stadium Site” means the area of land depicted as such on Exhibit A.

“Board” means the Board of County Commissioners of Miami-Dade County.

“BSA” is defined in the Recitals to this Agreement.

“Business Day” means any day other than a Saturday, Sunday or legal or bank holiday in the County or the City. If any time period set forth in this Agreement expires on a day other than a Business Day, such period shall be extended to and through the next succeeding Business Day.

“Casualty” is defined in Section 5.4(b).

“Certificate of Occupancy” means a certificate, whether temporary or permanent, issued by the City’s building official permitting public occupancy and use of the Parking Facilities.

“City” is defined in the Preamble to this Agreement.

“City Default” is defined in Section 8.2.1.

“City Parking Project” means the design, development, construction and equipping of the Parking Facilities in accordance with the terms of this Agreement.

“City Parking Site” means the areas of land depicted as such on Exhibit A.

“City Personnel” is defined in Section 11.7.

“City Representative” is defined in Section 11.11.

“Claim” is defined in Section 9.3.

“Commission” means the City Commission of the City of Miami.



“Construction Administration Agreement” means the Construction Administration Agreement among the County, the City and the Stadium Developer dated as of the date of this Agreement, as it may be amended and/or restated.

“County” is defined in the Preamble to this Agreement.

“County Default” is defined in Section 8.2.2.

“County Personnel” is defined in Section 11.8.

“County Provisions” means Articles I and II; Section 3.3; and Articles IV,, VIII, IX , X and XI.

“County Representative” is defined in Section 11.11.

“Default” means a Stadium Operator Default, City Default or County Default.

“Design Standards” is defined in Section 4.1.

“Entire Site” means the area of land described in Exhibit A.

“Expedited ADR” is defined in Section 10.2.

“Expedited ADR Dispute” is defined in Section 10.2.

“Force Majeure” means a war, insurrection, strike or lockout, riot, hurricane, flood, earthquake, fire, casualty, act of God, act of the public enemy, epidemic, quarantine restriction, freight embargoes, lack of transportation, governmental restriction, court order, unusually severe weather, act or the failure to act of any public governmental agency or entity, terrorism, or any other cause in each case (including the events specified above) beyond the reasonable control and without the fault of the Party claiming an excuse from performance; provided, however, that any Force Majeure involving or relating to County or City governmental restrictions or acts or failures to act of any County or City agency or entity shall not relieve the County or City, as the case may be, of their obligations under this Agreement unless the failure to act is as a result of another Force Majeure event beyond the reasonable control and without the fault of the Party claiming an excuse from performance.

“Government Indemnitee” is defined in Section 9.1(a).

“Government Party” means each of the County and the City.

“Governmental Authority” means any federal, state, county, municipal or other governmental department, entity, authority, commission, board, bureau, court, agency, or any instrumentality of any of them.

“Incremental Labor Costs” shall mean the actual labor costs incurred by the City in the staffing of the Parking Facilities for a Stadium Event (other than a regular season MLB Home Game) at staffing levels determined in accordance with Section 6.4., in excess of the labor costs

the City would have otherwise incurred at that time in the operation of the Parking Facilities for dates other than Stadium Events, soccer events or other extraordinary events.

“Indemnified Party” is defined in Section 9.3.

“Indemnitor” is defined in Section 9.3.

“Losses” is defined in Section 9.1(a).

“Major League Baseball” means, individually and collectively, the Office of the Commissioner of Baseball, the Commissioner of Baseball, the Major League Baseball clubs, Major League Baseball Enterprises, Inc., Major League Baseball Properties, Inc., Major League Baseball Properties Canada, Inc., Major League Baseball Productions, MLB Advanced Media, Inc., MLB Advanced Media, L.P., MLB Media Holdings, L.P., MLB Media Holdings, Inc., MLB Online Services, Inc., each of their respective present and future affiliates, assigns and successors, and any other entity owned equally by the Major League Baseball clubs.

“Major Sponsor” means a Person that spends at least the following amounts in any applicable Operating Year with the Team Affiliates (collectively) for Advertising (as defined in the Operating Agreement) or other rights or benefits relating to the Team Affiliates and/or the Baseball Stadium: (i) \$500,000 in any of Operating Years 1-15, (ii) \$525,000 in any of Operating Years 16-25, or (iii) \$600,000 in any of Operating Years 26-35.

“Master Project Schedule” is defined in the Construction Administration Agreement.

“MLB Events” means, collectively, MLB Home Games and MLB Jewel Events.

“MLB Home Games” means each of the Team’s scheduled or rescheduled baseball games at the Baseball Stadium, including exhibition, spring training, regular season, playoff and World Series games.

“MLB Jewel Events” means the Major League Baseball All-Star Game (and related events), World Baseball Classic and other Major League Baseball-controlled events expected to have an attendance of more than 5,000 people scheduled or rescheduled at the Baseball Stadium.

“MLB Reserved Dates” means all dates (x) on which MLB Events have been scheduled (or rescheduled) or (y) that the Team is required to reserve for the scheduling of MLB Home Games (including potential post-season games) or MLB Jewel Events under MLB Rules and Regulations.

“MPA” means the Department of Off-Street Parking of the City, d/b/a the Miami Parking Authority.

“Neutral” is defined in Section 10.2.

“NDZs” means the areas that have been designated in the City’s Community Development Plan as Neighborhood Development Zones. The NDZs have been qualified by the

Labor Market Statistics as Targeted Employment Areas due to their high unemployment rates and are depicted in Exhibit P.

“Non-Relocation Agreement” means the Non-Relocation Agreement among the Team, the County and the City dated as of the date of this Agreement, as it may be amended and/or restated.

“Operating Agreement” means the Operating Agreement among the County, the City and the Stadium Operator dated as of the date of this Agreement, as it may be amended and/or restated.

“Operating Standard” is defined in Section 5.1(f).

“Operating Year” means (i) the period commencing on the Substantial Completion Date and ending on the next succeeding October 31 and (ii) each subsequent twelve (12) month period during the Term commencing on the November 1 following the Substantial Completion Date and ending on the next succeeding October 31; provided that if this Agreement terminates on a date other than October 31, there shall be a partial last Operating Year ending on the date of such termination.

“Other Development” is defined in the Construction Administration Agreement.

“Other Events” means Stadium Events that are not MLB Events.

“Parking Architect” is defined in Section 4.1.

“Parking Criteria” is defined in Article II.

“Parking Design Documents” means, collectively, (i) the schematic design documents of the Parking Facilities, as may be amended from time to time in accordance with this Agreement, illustrating the scale and relationship of the components of the Parking Facilities, (ii) the design development documents of the Parking Facilities, as may be amended from time to time in accordance with this Agreement, based upon and refining the schematic design documents set forth in clause (i), illustrating the scope, relationship, forms, size and appearance of the Parking Facilities by means of plans, sections and elevations, typical construction details, and equipment layouts and architectural drawings, and (iii) the final construction drawings and specifications, as may be amended from time to time in accordance with this Agreement, setting forth the complete design of the Parking Facilities in sufficient detail for the permitting and construction of the Parking Facilities.

“Parking Development Requirements” is defined in Section 4.2(a).

“Parking Facilities” is defined in Article II.

“Parking Final Completion” means the occurrence of all of the following: (i) the Parking Architect has signed and delivered to the City and the Stadium Operator a certificate of final completion, (ii) a permanent Certificate of Occupancy has been issued with respect to the Parking Facilities, and (iii) punch list items have been completed.

"Parking Manager" is defined in Section 5.6.

"Parking Premises" means, collectively, the City Parking Site and the Parking Facilities.

"Parking Structures" means the parking structures to be constructed by the City on the City Parking Site as described in the Parking Criteria.

"Parking Substantial Completion" means the occurrence of both of the following: (i) the Parking Architect has signed and delivered to the City and the Stadium Operator a certificate certifying that the Parking Facilities have been substantially completed subject to the completion of minor punch list items that do not materially affect the use of the Parking Facilities as contemplated by this Agreement, and (ii) a temporary or permanent Certificate of Occupancy has been issued in respect of the Parking Facilities.

"Parties" is defined in the Preamble to this Agreement.

"Person" means any natural person, firm, partnership, association, corporation, limited liability company, trust, public body, authority, governmental unit or other entity.

"Promotional Rights" is defined in the Operating Agreement, and shall include all Revenue Rights referred to therein.

"RFP" means the solicitation documents for the procurement of a contractor or construction manager for the performance and management of the construction of the Parking Facilities in accordance with Applicable Law.

"Signage" means all signage (whether permanent or temporary) in or on the Parking Premises, including banners, fascia boards, displays, message centers, advertisements, signs and marquee signs, in each case, in accordance with this Agreement. The size, dimensions, location and design of all Signage shall be subject to Applicable Law respecting such Signage.

"Small Business/Local Workforce Goals" means the local businesses and workforce goals to be included in the RFP to be issued by the City for the development of the Parking Facilities as provided in Section 4.3.

"Stadium Agreements" means, collectively, this Agreement, the Construction Administration Agreement, the Operating Agreement, the Non-Relocation Agreement, and the Assurance Agreement.

"Stadium and Parking MUSP" is defined in the Construction Administration Agreement.

"Stadium Developer" means Marlins Stadium Developer, LLC, a Delaware limited liability company, and its permitted successors and assigns.

"Stadium Event" means any event held at the Stadium Premises, including: MLB Home Games; MLB Jewel Events; Team practices, exhibitions, clinics, promotions and fan activities; and other professional or amateur sporting events or exhibitions, concerts, trade shows, conventions, general audience, family or other targeted audience shows, performances or

exhibitions. Notwithstanding the foregoing, Stadium Events shall not include Community Events (as defined in the Operating Agreement).

“Stadium Operator” means Marlins Stadium Operator, LLC, a Delaware limited liability company, and its successors and assigns permitted under Section 11.9(a).

“Stadium Operator Default” is defined in Section 8.1.

“Stadium Operator Indemnatee” is defined in Section 9.2(a).

“Stadium Operator Personnel” is defined in Section 11.6.

“Stadium Operator Representative” is defined in Section 11.11.

“Stadium Premises” is defined in the Operating Agreement.

“State” means the State of Florida.

“Substantial Completion Date” is defined in the Operating Agreement.

“Surface Lots” means the surface parking lots to be constructed by the City on the City Parking Site as described in the Parking Criteria.

“Team” means Florida Marlins, L.P., a Delaware limited partnership, and its permitted successors and assigns.

“Team Affiliate” means the Team, the Stadium Operator, the Stadium Developer and any other entity that is an Affiliate of the Team.

“Term” is defined in Section 3.1.

“Transfer” is defined in Section 11.9(a).

“Work” is defined in Section 4.4.

## ARTICLE II

### PARKING FACILITIES

The City shall construct or cause to be constructed, on the City Parking Site, Parking Structures and Surface Lots (together, the “Parking Facilities”) that will include approximately 6,000 (subject to Section 4.8) parking spaces held for use as provided in this Agreement, and will operate and provide access to such Parking Facilities, on the terms set forth in this Agreement. The general configuration, layout and design features of the Parking Facilities are more particularly described in the Parking Criteria attached hereto as Exhibit B (the “Parking Criteria”), and will be reflected in the Parking Design Documents. The City estimates the construction cost of the Parking Facilities at \$94 million. The Parties acknowledge that the City will not use ad-valorem revenues to fund construction of the Parking Facilities and the Parties

further acknowledge that if the cost of construction (exclusive of soft costs and tenant improvements) exceeds \$94 million the number of parking spaces will be reduced accordingly.

### ARTICLE III

#### TERM

3.1 Term. The term of this Agreement shall commence on the date hereof and shall expire on October 31 in the year in which the twentieth (20<sup>th</sup>) annual anniversary of the Substantial Completion Date occurs, unless sooner terminated pursuant to any applicable provision of this Agreement (such term as it may be so terminated, or as it may be extended pursuant to Section 3.2, being referred to herein as the "Term").

3.2 Options to Extend Term. The Stadium Operator shall have the option (but not the obligation) to extend the Term on the same terms and conditions set forth in this Agreement for (a) an additional term of ten (10) years, and (b) if so extended pursuant to clause (a), a further additional term of five (5) years. The Stadium Operator shall exercise its option to extend the Term by delivering written notice of such exercise to the City no later than three hundred sixty-five (365) days prior to the expiration of the initial Term or any extended Term, as applicable.

3.3 Termination. Notwithstanding anything to the contrary in this Agreement, this Agreement shall terminate with respect to the Stadium Operator upon the termination of the Operating Agreement. Upon any early termination of the Operating Agreement pursuant to Article XVII thereof, the County shall have the right, at its sole discretion, within 180 calendar days following the early termination of the Operating Agreement, to elect to assume the Stadium Operator's rights and obligations under this Agreement for the remainder of the Term. or such earlier date upon which title to the Baseball Stadium Site may revert from the County to, or at the direction of, the City pursuant to the Warranty Deed referred to in the Construction Administration Agreement; provided, however, that upon expiration of such 180 day period, if the County is able to identify a replacement tenant who fits the criteria set forth in the Warranty Deed prior to the reversion of the Baseball Stadium site back to the City, the Government Parties agree to negotiate in good faith with such replacement tenant to enter into a new parking agreement.

### ARTICLE IV

#### DESIGN AND CONSTRUCTION OF PARKING FACILITIES

4.1 Design. The City shall manage and control the design of the Parking Facilities, including the hiring of an architect (the "Parking Architect"), and their construction, (a) to support a forty (40)-minute maximum empty time; (b) in conformity with (i) the Parking Criteria, (ii) the terms of this Agreement and the other Stadium Agreements, (iii) the functional requirements of the Baseball Stadium as contemplated in the Construction Administration Agreement and the Operating Agreement, and (iv) Applicable Law; and (c) in a manner that is architecturally harmonious with the Baseball Stadium and does not contain highly reflective materials facing the Baseball Stadium ((a)-(c), the "Design Standards"). The Stadium Operator Representative and the County Representative shall each have the right to review, comment upon and approve each of the Parking Design Documents, provided such review and approval (1) shall be limited to their confirmation that the applicable Parking Design Documents are in conformity

with the Design Standards, and (2) shall not otherwise be unreasonably withheld, conditioned or delayed. The City shall deliver copies of each Parking Design Document, and any amendments or modifications thereto, to the Stadium Operator Representative and the County Representative promptly after they are prepared by the Parking Architect. Each of the Stadium Operator Representative and the County Representative shall notify the City in writing, within ten (10) Business Days after receipt of the applicable Parking Design Documents, if it objects to all or any portion of any Parking Design Document for lack of conformity to the Design Standards. In such event, the objecting Party shall provide to the City detailed comments setting forth the reasons that it has determined that the applicable Parking Design Document is not generally consistent in all material respects with the Design Standards. If, within such ten (10) Business Day period, the Stadium Operator Representative or the County Representative do not properly object to the Parking Design Document as set forth in this Section 4.1, then the Stadium Operator Representative or the County Representative (as applicable) shall be deemed to have approved the applicable Parking Design Document. Similarly, if the Stadium Operator Representative and the County Representative reject only certain specified elements in the applicable Parking Design Document as non-conforming, then the elements to which they do not object shall be deemed approved. If the City disagrees with any of the objecting Party's comments, the objecting Party and the City shall use good faith efforts to resolve any such objections and, if applicable, revise the Parking Design Documents, in an expeditious manner so as not to delay the production of the Parking Design Documents or the City Parking Project. The City shall cause the Parking Architect to revise the applicable Parking Design Documents to address any comments raised by the County Representative or Stadium Operator Representative with which the City agrees and shall submit revised Parking Design Documents to the County Representative and Stadium Operator Representative for their review and confirmation as provided above. The County Representative and Stadium Operator Representative shall have five (5) Business Days from the receipt of the revised Parking Design Documents to review and approve them. The failure of the County Representative or Stadium Operator Representative to respond within such five (5) Business Day period shall be deemed approval. If the objecting Party and the City are not able to resolve any disagreements under this Section 4.1, either of them may file for Expedited ADR pursuant to Section 10.2.

#### 4.2 Parking Development Requirements.

(a) The City or the County, as applicable, shall expeditiously process all applications for consents, approvals and permits necessary for the timely construction of the Parking Facilities, which may include, if applicable, without limitation: (i) major use special permit and any other special permits and/or special exception applications, (ii) road, alley, and/or public right of way closure(s) and relocation petitions, (iii) re-platting petitions, including the Replat, (iv) re-zoning or zoning variance applications, (v) Miami-Dade Department of Environmental Resources Management and Miami-Dade Water and Sewer Department approvals, (vi) petitions to relocate all public and private utilities, including, without limitation, electric, gas, cable, telecommunication, water, sewer, and storm drainage facilities, located within the City Parking Site to areas to be located outside the boundary of the City Parking Site, and (vii) building permits (collectively, including (i) – (vii), the “Parking Development Requirements”). The City and the County shall each act reasonably to expedite any applications for actions or approvals requested or required of them in connection with the permitting and construction of the Parking Facilities to allow for the timely completion of the Parking Facilities.

The City and the County shall use reasonable and diligent efforts to issue and facilitate lawful applications for permits, the consideration of which is a ministerial function, that are necessary for the timely construction, occupancy and completion of the Parking Facilities.

(b) The City has confirmed via separate letter from its Zoning Administrator and Director of Planning, respectively, that the proposed use of the Entire Site for the Parking Facilities is consistent with the current zoning and the City's Comprehensive Land Use Plan for the Entire Site.

4.3 Construction Manager. The City shall retain a contractor or construction manager for the performance and management of the construction of the Parking Facilities in accordance with Applicable Law. The City shall include in the RFP Small Business/Local Workforce Goals to be determined prior to the issuance of the RFP. The goals shall require that preference be given to small businesses having an actual place of business in, and workers with a residence in, the DTAs (as defined in the County's CWP Regulations) and the NDZs. The Small Business/Local Workforce Goals for the construction of the Parking Facilities will be established for each construction trade package by the City Manager. In the event the City wishes to use or design a program similar to the Miami-Dade County Community Small Business Enterprise programs and Community Workforce Program (the "Local Business Programs"), the County agrees to work in good faith with the City in establishing the procedures that will allow the City and the contractor or construction manager to use the databases and services of the Local Business Programs, including (i) the County SBD will provide a listing of all certified CSBE firms (for the relevant construction trades) with their business addresses, (ii) permitting the Construction Manager to utilize the Local Business Programs to satisfy the Small Business/Local Workforce Goals, including but not limited to, submitting job hiring requests through the County's Small Business Department (SBD) clearinghouse, and other union and non-union clearinghouses, and (iii) directing the SBD to submit the hiring requests to all DTAs and NDZs, with the goal of filling such hiring needs as efficiently as possible and with as many qualified candidates from within the DTAs and NDZs as possible.

4.4 Construction Work. The City shall be responsible for managing, directing, supervising, coordinating and controlling the City Parking Project (the "Work"), including the matters addressed in Sections 4.1 through 4.3 and the continuous and orderly performance of all aspects of the following:

(a) retaining and managing the services of a construction manager and other contractors and personnel needed to improve the Surface Lots, as agreed to by the Parties, construct and equip the Parking Structures, and otherwise perform the Work in accordance with the Parking Design Documents, the Parking Criteria and the Master Project Schedule;

(b) maintaining, or causing to be maintained, complete and accurate books and records, consistent with industry standards, regarding the City Parking Project, including the Parking Design Documents;

(c) taking all action reasonably required to comply with all Applicable Laws and taking all reasonable action required to cause the Parking Architect and contractors to design and construct the Parking Facilities in accordance with Applicable Laws;



(d) furnishing promptly to the Stadium Operator Representative and the County Representative all documents and information required to be provided to them pursuant to this Agreement and all other information within the City's possession or control relating to the City Parking Project that the Stadium Operator Representative or the County Representative may reasonably request (except to the extent such information may not be made available under Applicable Law);

(e) notifying promptly the Stadium Operator Representative and the County Representative of any suit, proceeding or action that is initiated or threatened in writing against the City in connection with the City Parking Project;

(f) providing the Stadium Operator Representative and the County Representative, upon the date of Parking Final Completion, with a record set of the Parking Design Documents revised to show the "as-built" condition of the Parking Facilities and other changes made during construction of the Parking Facilities;

(g) managing punch list and warranty work after Parking Substantial Completion;

(h) providing the Stadium Operator Representative and the County Representative with copies of any minutes prepared by the City or by its contractors that are received by the City, with respect to all project meetings;

(i) causing the completion of the Parking Facilities in accordance with the approved Parking Design Documents, the Design Standards, the Master Project Schedule and this Agreement;

(j) obtaining or causing to be obtained all permits necessary for construction of the City Parking Project in accordance with Section 4.2;

(k) maintaining the Parking Premises construction site in safe condition, properly secured at all times with security against unpermitted access;

(l) subject to Section 5.4(c), promptly causing the repair and restoration of any portion of the Parking Facilities affected by a Casualty;

(m) remediating, in accordance with any option available under applicable environmental law, rules and regulations, including Chapter 24 of the Miami-Dade County Code, any environmental contamination located on, in or under or originating from the portion of the City Parking Site, provided, the City shall have no obligation to conduct remediation of any environmental contamination pursuant to this Agreement to the extent such contamination does not impact the Parking Facilities or the Public Infrastructure;

(n) supervising and coordinating, or using reasonable efforts to cause the construction manager to supervise and coordinate, the construction of the Parking Facilities so that the Parking Facilities are constructed, equipped, furnished and completed in a good and workmanlike manner in accordance with this Agreement; and

(o) providing the Stadium Operator Representative and the County representative quarterly progress reports of the status of the City Parking Project through each design phase and the construction of the Parking Facilities.

4.5 Project Costs. The City shall pay all costs and expenses for the design, development, construction, equipping and completion of the Parking Facilities, including (a) all costs associated with any parking infrastructure required for the construction of the Parking Facilities, (b) all amounts payable to the Parking Architect and contractors, (c) all permit fees and other Parking Development Requirement fees and costs, (d) all costs to remediate (if required) the City Parking Site for construction of the Parking Facilities as provided in Section 4.4(m), and (e) all costs to equip the Parking Premises consistent with the Parking Criteria.

4.6 Master Project Schedule. The City shall use reasonable best efforts to ensure that the Work proceeds in accordance with the Master Project Schedule, subject to extensions resulting from Force Majeure. The City shall cause Parking Substantial Completion to occur no later than thirty (30) days prior to the Substantial Completion of the Baseball Stadium pursuant to the Construction Administration Agreement, and Parking Final Completion to occur as soon as practicable following Parking Substantial Completion. The Parking Facilities shall be developed and constructed in a manner that will not delay or would reasonably be expected to jeopardize Substantial Completion of the Baseball Stadium by the Targeted Completion Date or the Public Infrastructure by the Substantial Completion Date referenced in the Master Project Schedule. Notwithstanding anything contained in this Section 4.6, the Stadium Operator acknowledges and agrees that in the event the staging of construction for the Baseball Stadium interferes with or otherwise causes a delay in the City's construction of any of the Parking Facilities, the construction schedules for the affected Parking Facility contained in the Master Project Schedule shall be extended accordingly, provided that the City has provided the Stadium Operator with prompt written notice of any such interference with or delay to the construction of the relevant Parking Facility.

4.7 Right to Inspect and Receive Information. The Stadium Operator Representative (including the Architect and Construction Manager under the Construction Administration Agreement) and the County Representative shall be given an opportunity to inspect the construction work and materials for the Parking Facilities as reasonably necessary to verify that the work and materials are in general conformity with the Design Standards. The Stadium Operator Representative and the County Representative shall receive in writing from the City, within ten (10) days of providing the City with written request thereof, information regarding the progress of the City Parking Project through each design phase and the construction of the Parking Facilities. During the construction of the Parking Facilities, the Stadium Operator Representative and the County Representative shall receive advance notice of, and shall have the right to attend, all scheduled meetings among the City and project contractors related to the City Parking Project, and the right to inspect the Parking Facilities at all reasonable times, subject to reasonable restrictions imposed by the City or construction manager. The City shall make itself and the Parking Architect and contractors reasonably available to the Stadium Operator Representative, the County Representative and their representatives throughout the duration of the City Parking Project in order to keep the Stadium Operator Representative and the County Representative reasonably informed throughout the duration of the City Parking Project. Any rights that the Stadium Operator Representative, the County Representative and their

representatives have under this Section 4.7 shall not be the basis for any liability to accrue to them from the City or any other Persons for such monitoring or investigation or for the failure to have conducted such monitoring or investigation.

4.8 Number of Spaces. The City shall have the right to (a) replace spaces in Parking Structures with spaces in Surface Lots on the City Parking Site; (b) reduce the number of spaces in the Parking Facilities to approximately 5,700; and/or (c) relocate the Surface Lots or any parking spaces to be located within Surface Lots to other surface lots located outside of the City Parking Site that are of comparable distance to the Baseball Stadium; provided that in no event under (a) – (c) above shall the total number of spaces in the Parking Facilities (including any surface lots and/or parking spaces located outside the City Parking Site as contemplated in clause (c) above) be less than 5,500. Notwithstanding the foregoing, the City shall have the right to reduce the number of spaces in the Parking Facilities in the event the cost of construction of the Parking Facilities (exclusive of soft costs and tenant improvements) exceeds \$94 million.

4.9 Liens. Provided that no Stadium Operator Default exists, the City shall use commercially reasonable efforts to cause the Parking Facilities to be constructed in accordance with the Parking Design Documents free and clear of any and all Liens except as otherwise contemplated or permitted under this Agreement. In the event any such Lien is filed by the Parking Architect, construction manager or any subcontractors or suppliers due to any act or omission of the City and provided that no Stadium Operator Default exists, the City shall cause said Lien to be discharged or transferred to appropriate bond within thirty (30) days of recording. If the City does not discharge or transfer to appropriate bond any such Lien within thirty (30) days of recording, the Stadium Operator shall have the right, but not the obligation, to cause the Lien to be released by any means the Stadium Operator reasonably deems proper, including payment of the Lien from project funds. The City shall have the right to contest any such Lien in good faith and, so long as such contest does not result in the imminent loss or forfeiture of the City's title to the Parking Facilities, the Stadium Operator shall take no actions permitted under the preceding sentence.

## ARTICLE V

### OPERATION OF PARKING FACILITIES

5.1 Operation. Subject to Article VI and the other terms of this Agreement, the City, through MPA or, in the event MPA declines to operate the Parking Facilities, through a Third Party Manager, as provided in Section 5.6, shall have the exclusive right, authority and responsibility to operate, manage, maintain and control the Parking Facilities on a year-round basis. These rights and responsibilities include:

(a) subject to Article VI with respect to Stadium Events, determining staffing levels, scheduling hours of operation and establishing parking rates for the Parking Facilities;

(b) employing, terminating and supervising all personnel necessary for the operation of the Parking Facilities, including cashiers, maintenance crews and security personnel;

(c) procuring and entering into contracts for the furnishing of all utilities, equipment, services and supplies necessary for the operation of the Parking Facilities;

(d) performing, or causing to be performed, all maintenance and repairs in accordance with Section 5.4;

(e) maintaining or causing to be maintained all necessary, licenses, permits and authorizations for the operation of the Parking Facilities; and

(f) operating the Parking Facilities in accordance with Applicable Law, the Operating Standard attached hereto as Exhibit C (the "Operating Standard") and this Agreement.

5.2 Revenues. Except as provided in Article VI with respect to Stadium Events, the City shall have the exclusive right to establish prices for, and to collect and retain, all parking fees in the Parking Facilities.

5.3 Expenses. Except as expressly provided in Sections 6.1, 6.3(d) and 6.3(e), the City shall be responsible for the payment of all expenses and taxes relating to the Parking Premises and the ownership, use and operation thereof, including expenses and taxes arising from or related to maintenance, repairs, insurance, utilities, event personnel, security and cleaning services.

5.4 Maintenance and Repairs.

(a) The City shall keep the Parking Facilities in good maintenance and repair in accordance with the Operating Standard.

(b) Subject to Section 5.4(c), if at any time after the Substantial Completion Date, all or any part of the Parking Facilities shall be damaged or destroyed by a casualty of any nature (a "Casualty"), the City shall repair, restore, replace and/or rebuild (such work being "Casualty Repair Work") the Parking Facilities as nearly as practicable to a condition that is at least substantially equivalent to that existing immediately before the Casualty, with such changes and alterations thereto as the City shall request and the Stadium Operator Representative shall approve in accordance with substantially the same procedures set forth in Section 4.1. The Casualty Repair Work shall commence not later than one hundred eighty (180) days after the Casualty occurs, which time shall be extended (provided the City is proceeding with reasonable diligence) by such reasonable time as is commensurate with any delays due to adjustment of insurance, preparation of any necessary plans and specifications, bidding of contracts, obtaining of all required approvals and events of Force Majeure. The Casualty Repair Work shall be performed in accordance with Applicable Law.

(c) Notwithstanding Section 4.4(l) or 5.4(b), if a Casualty also affects the Baseball Stadium in a manner that results or may result in a termination of the Construction Administration Agreement pursuant to Section 8.3(d) thereof or the Operating Agreement pursuant to Section 11.2(c) or 11.4(a) thereof, the City shall have no obligation to undertake the Casualty Repair Work if the Construction Administration Agreement or the Operating Agreement is so terminated, or until the Construction Administration Agreement or Operating Agreement may no longer be terminated under one of those sections.

5.5 Insurance. The City shall obtain and maintain, or shall cause to be obtained and maintained, the insurance coverage for the periods of time during the Term as set forth in Exhibit D.

5.6 Third Party Manager. In the event MPA declines to operate the Parking Facilities, the City may retain a third party with experience in the management of large parking facilities (a “Parking Manager”) to manage the Parking Facilities. The City shall provide the Stadium Operator an opportunity to review and comment upon the Request for Proposal for the Parking Manager (which the City and Stadium Operator agree will include a requirement that the parties submitting proposals thereunder shall consider alternative methods of payment for patrons, including payment by credit card) and shall provide the Stadium Operator a voting seat on the evaluation committee that selects the Parking Manager. The management agreement between the City and a Parking Manager shall expressly incorporate and require the Parking Manager to adhere to the applicable terms of this Agreement. In addition, the management agreement shall provide that the City may amend any provisions in the management agreement, if necessary, in order to maintain the tax-exempt status of any bond issued by the City for financing the construction of the Parking Facilities. Pursuant to the management agreement, the City shall cause the Parking Manager to indemnify and agree to defend the Stadium Operator Indemnitees, the Team Affiliates, the County and each of their respective officers and employees from and against any Loss arising out of the actions or omissions of the Parking Manager, its employees, contractors, agents or affiliates. All fees and other amounts owing to the Parking Manager shall be paid by the City. The retention of a Parking Manager shall not relieve the City of its obligations under this Agreement, and all references to the “City” in this Agreement shall include the Parking Manager as appropriate.

## ARTICLE VI

### USE OF PARKING FACILITIES BY TEAM AFFILIATES

6.1 Team Reserved Parking. The Stadium Operator, the Team and their employees and guests shall have exclusive use of two hundred-fifty (250) of the parking spaces in the Parking Facilities, at no cost, on a twenty-four (24) hour per day, year-round basis throughout the Term (the “Team Reserved Parking Spaces”). The Team Reserved Parking Spaces shall be located in Parking Garages P1, P2 and/or P3, as determined by the Stadium Operator in its sole discretion, provided that the Team Reserved Parking Spaces shall not be located on any Surface Lots. The Team Reserved Parking Spaces shall be separately secured and the Stadium Operator shall be responsible for paying all of the City’s incremental costs incurred or requested by Stadium Operator in separately securing the Team Reserved Parking Spaces, such as additional fencing or security cameras. The Stadium Operator shall remit, or cause to be remitted, to the City such incremental costs within ten (10) Business Days after receiving a reasonably detailed invoice from the City. The Stadium Operator shall separately provide and pay for any additional security personnel or other services it requires for the Team Reserved Parking Spaces.

#### 6.2 Stadium Event Parking.

(a) Subject to the scheduling priorities set forth in Section 5.2 of the Operating Agreement, (i) the Team Affiliates and/or Major League Baseball, as applicable, and

their respective employees, guests, licensees and patrons, shall have prior and exclusive use of all of the spaces in the Parking Facilities for all MLB Events, and (ii) the Team Affiliates and/or the sponsors or promoters of Other Events, as applicable, and their respective employees, guests, licensees and patrons, shall have prior and exclusive use of as many spaces in the Parking Facilities as are projected to be needed and have been reserved for such Other Events by the applicable Team Affiliate, sponsor or promoter in accordance with Section 6.2(b) below. All parking made available for MLB Events and Other Events hereunder shall be made available from two (2) hours prior to through at least two (2) hours following each such event.

(b) The Stadium Operator shall notify the City or the Parking Manager in writing of the MLB Reserved Dates for each Operating Year no later than ten (10) Business Days after the Team's schedule is finalized for that Operating Year. If the Stadium Operator wishes to reserve the Parking Facility for any other Stadium Event, it shall deliver to the City or the Parking Manager a written notice setting forth the date of such proposed Stadium Event at least fourteen (14) days before contractually committing to the proposed Stadium Event. Such notice shall be given in good faith and shall identify in reasonable detail the nature of the Stadium Event, the start time for such Stadium Event, the projected number of parking spaces and portions of the Parking Facilities that are projected to be used, any special security or other staffing arrangements that are anticipated, and any other information reasonably necessary for the City to perform its duties under this Agreement. The Stadium Operator shall promptly notify the City or the Parking Manager if the scheduled date or start time of a Stadium Event is changed; provided, however, no such notice from the Stadium Operator of a re-scheduled date or start time shall in any event be given to the City or the Parking Manager less than fourteen (14) days prior to the previously scheduled date of such Stadium Event. Notwithstanding the foregoing, the Stadium Operator shall notify the City or the Parking Manager in writing at least fourteen (14) days prior to a scheduled Stadium Event, of the terms of admission to the Parking Facilities (i.e., parking fees to be collected for non-prepaid parking spaces). Subject to the scheduling priorities set forth in Section 5.2 of the Operating Agreement, the City shall reserve the Parking Facilities for the exclusive uses contemplated under Section 6.2(a), and shall not permit any other Persons to use the Parking Facilities with respect to MLB Reserved Dates and other Stadium Events (except to the extent all of the spaces in the Parking Facilities are not needed for such other Stadium Events) as to which it or the Parking Manager receives notice under this Section 6.2(b).

### 6.3 Payments for Stadium Event Parking.

(a) In addition to the Stadium Operator's obligation to pay the incremental costs in separately securing the Team Reserved Parking Spaces under Section 6.1, as the sole consideration payable by the Stadium Operator, the other Team Affiliates, Major League Baseball, Other Event sponsors or promoters, and their employees, guests, licensees and patrons, for the use of the Parking Facilities pursuant to Sections 6.1 and 6.2 for all Stadium Events (other than the Incremental Labor Costs of staffing the Parking Facilities for Stadium Events that are not regular season MLB Home Games as set forth in Section 6.3(e) below), and the operating and other obligations performed by or on behalf of the City under this Agreement, the Stadium Operator shall pay, or cause to be paid, to the City an amount representing the purchase of the Available Number of Parking Spaces for each regular season MLB Home Game played at the Baseball Stadium in each Operating Year at the following price per space:

<u>Years</u>	<u>Price</u>
1 – 5	\$10.03
6 – 10	\$10.10
11 – 15	\$10.20
16 – 20	\$10.86
21 – 25	\$11.56
26 – 30	\$12.29
31 – 35	\$12.53

For purposes of the foregoing, “Available Number of Parking Spaces” means the number of parking spaces in the Parking Facilities actually made available to the Stadium Operator for regular season MLB Home Games, after giving effect to Section 4.8. The Available Number of Parking Spaces shall exclude the Team Reserved Parking Spaces and shall not exceed 5,750.

(b) If in any Operating Year there are fewer than eighty one (81) regular season MLB Home Game played at the Baseball Stadium due solely to a strike or lockout of MLB players, and one or more other Stadium Events are held at the Baseball Stadium in such Operating Year at which customers pay the Stadium Operator for spaces in the Parking Facilities, the Stadium Operator shall pay to the City the revenues it receives from those customers in an amount not to exceed the per space amounts set forth in Section 6.3(a) until the City has received the amount it would otherwise have received under Section 6.3(a) with respect to the cancelled MLB Home Games. Such amounts shall not include the taxes or surcharges, which the Stadium Operator is obligated to remit to the applicable taxing authorities under Section 6.3(d) below and other direct expenses, and the Incremental Labor Cost payable to the City under Section 6.3(e).

(c) The amounts due to the City under Sections 6.3(a) and (b) with respect to each Operating Year shall be payable semi-annually on or before May 31 of such Operating Year and November 30 following such Operating Year. Such amounts shall be payable without taxes or surcharges, provided that this shall not limit the Stadium Operator’s obligation to remit taxes and surcharges to the applicable taxing authorities under Section 6.3(d) below. The prices in Section 6.3(a) assume that the City is required to maintain a one (1) year debt service reserve for the contemplated Parking Facility bond financing and that the City satisfies such reserve with a surety. The City shall use best efforts to utilize such a surety, or to otherwise utilize a letter of credit or similar financial instrument. If the City is nevertheless required to maintain a cash reserve to satisfy this requirement, the prices in Section 6.3(a) shall be increased by the net incremental cost of maintaining such cash reserve on a \$44,000,000 portion of such Parking Facility bonds (i.e., interest on any additional borrowings to fund the reserve, less earnings on the reserves and the assumed surety rate). The City shall use best efforts to minimize any such incremental costs, including by maximizing the earnings on the reserves, provided that such earnings may not exceed the interest rate on the Parking Facility bonds.

(d) The Team Affiliates or their designees shall determine the prices and other terms upon which the Parking Facilities will be made available to patrons for Stadium Events (including regular season and post-season MLB Home Games and MLB Jewel Events) in their sole discretion, and shall receive and retain all revenues derived therefrom. Such terms may include higher or lower parking prices than those set forth in Section 6.3(a) above, and the

provision of free, discounted or prepaid parking passes for Stadium Events. The City shall honor such parking passes without payment by the patrons. The City shall collect all parking revenues payable at the Parking Facilities for Stadium Events as agent for the Stadium Operator in cash. Except as provided in Section 6.3(g) below, all cash collections shall be deposited by the City on the date of the Stadium Event or the next Business Day directly into an account designated by the Stadium Operator. The Stadium Operator shall be responsible for all generally applicable taxes and surcharges payable from all sales from which the Stadium Operator or the Team or any Team Affiliate is paid the revenues. The amount of such taxes and surcharges shall be calculated and paid by the Stadium Operator in accordance with generally Applicable Law. In connection therewith, the Parties agree that the parking surcharge to be remitted by the Stadium Operator for free, discounted or prepaid parking passes for regular season MLB Home Games shall be calculated on an amount not less than the amount set forth in Section 6.3(a) above. Except as provided herein, the City acknowledges that neither it nor the Parking Manager shall have any right or interest in any parking revenue generated from Stadium Events or in any account or funds held therein relating to such revenue.

(e) The Stadium Operator shall pay the Incremental Labor Costs of staffing the applicable Parking Facilities for Stadium Events that are not regular season MLB Home Games. The City and the Stadium Operator shall agree upon such staffing levels as set forth in Section 6.4. The Stadium Operator shall remit, or cause to be remitted, to the City the Incremental Labor Costs with respect to all such Stadium Events (that are not regular season MLB Home Games) occurring during any calendar month within ten (10) Business Days after receiving a reasonably detailed invoice following the end of such month. Except as provided in this Section 6.3, none of the Team Affiliates or Major League Baseball shall be required to pay for their use of the Parking Facilities for Stadium Events.

(f) The City shall maintain accurate and complete books and records, compiled in a consistent manner, so as to permit an audit by the Stadium Operator of the parking revenues relating to Stadium Events. The City shall retain such records for no less than three (3) years. All such books and records shall be made available to the Stadium Operator within twenty (20) days of the City's receiving written request from the Stadium Operator, for inspection, copying and audit. The City shall implement appropriate entrance and exit controls to calculate and compile entrance and exit data with respect to the number of vehicles entering and exiting the Parking Facilities for Stadium Events. The City shall submit to the Stadium Operator a preliminary report of such entrance and exit data and parking revenues within twenty-four (24) hours, and a final report within two (2) business days, after each Stadium Event. The Stadium Operator agrees that it shall be subject to and bound by the provisions of Chapter 35, Article IX of the City of Miami Code and other Applicable Law relating to the City's audit rights.

(g) Notwithstanding anything contained herein, the City shall have the exclusive right to establish prices for, and to collect and retain, all parking fees for any and all parking spaces that are not reserved by a Team Affiliate for Stadium Events pursuant to Section 6.2.

6.4 Staffing. With respect to Stadium Events, the City shall employ, at its cost (except as provided in Section 6.3(e)), sufficient, qualified and well-trained (a) cashiers and other



personnel to allow for the shortest practicable entry and empty times; and (b) other personnel consistent with the Operating Standard. The City and the Stadium Operator shall agree upon the staffing levels for traffic control and security personnel prior to any Stadium Event. If the parties are unable to agree despite their good faith efforts to do so, then the City shall decide the final staffing levels for any regular season MLB Home Game and the Stadium Operator shall decide the final staffing levels for all other Stadium Events, in each case consistent with the Operating Standard. The City shall use reasonable efforts to cause Parking Facility personnel to perform their duties in a courteous, professional and timely manner. All Parking Facility personnel shall be deemed employees or agents of the City or the Parking Manager and shall not for any purpose be considered employees or agents of the Stadium Operator or other Team Affiliates.

6.5 Soccer Stadium; Other Development. The City shall not provide or permit use of the Parking Facilities by any owner or operator of a soccer team or soccer stadium (or its employees, licensees, guests or patrons) at lower prices than those set forth in Section 6.3(a) or on otherwise more favorable terms than those set forth in this Agreement, without the prior written consent of the Stadium Operator; provided, however, that the City may impose on the soccer team or soccer stadium a minimum space purchase requirement of less than 5,750 to reflect a relatively smaller size and projected attendance at the soccer stadium. The City shall not permit the use of Other Development that in any material respect interferes with the operation of the Parking Facilities for MLB Events, or Other Events expected to have attendance of at least 5,000 people.

6.6 Advertising Rights, Concessions and Promotional Rights.

(a) The Team Affiliates shall have the exclusive right to sell and enter into agreements with respect to all Signage and advertising rights with respect to the Parking Premises, on such terms and conditions as the Team Affiliates shall determine. The Stadium Operator shall pay to the City 50% of all net revenues (i.e., revenues less fulfillment costs and sales commissions, but excluding salary and benefits paid to the Team Affiliates' officers, directors and employees) derived from such sales. Such payments shall be made together with the payments by the Stadium Operator under Section 6.3(a). If any such sale is for non-monetary consideration, the revenue from that sale shall be determined based on the fair market value of such consideration. The revenue attributable to the Signage for purposes of this Section 6.6(a) shall be based on the rate card for such Signage as approved by the City Representative. If the City Representative has not approved of a rate card for such Signage, the Stadium Operator shall not sell such Signage without the City Representative's prior consent, which shall not be unreasonably conditioned, withheld or delayed.

(b) The Stadium Operator shall maintain accurate and complete books and records, compiled in a consistent manner, of the net revenues payable to the City under Section 6.6(a). The Stadium Operator shall retain such records for no less than three (3) years. All such books and records shall be made available to the City Representative within twenty (20) days of the Stadium Operator's receiving written request from the City Representative, for inspection, copying and audit.

(c) The Stadium Operator shall be responsible for installing all Signage on the Parking Premises resulting from sales under Section 6.6(a). The City shall permit the display of

all such Signage or other advertising sold by the Team Affiliates. Except as provided in Sections 6.6(d) below, the City shall not sell, authorize or permit any Signage or advertising in the Parking Premises. Notwithstanding anything to the contrary in this Agreement, no Signage shall promote tobacco, adult entertainment or guns.

(d) The provisions of Section 6.6(a) shall not apply to reasonable and customary Signage placed in the Parking Facilities by retail tenants in the Other Development with respect to themselves. Notwithstanding the foregoing, no such Signage may relate to a business conducted by, or otherwise conflict with, any Major Sponsor; provided, however, that no retail tenant in the Other Development that competes with a new Major Sponsor (i.e., a Major Sponsor that enters into an agreement with a Team Affiliate or the Baseball Stadium following the Team's first year in the Baseball Stadium) shall be required to terminate its agreement early or to remove its competing advertising until the expiration of the term of its agreement; provided, further, that no such agreement shall be renewable if it conflicts with a Major Sponsor at the time of such renewal.

(e) Ambush Advertising shall be prohibited at the Parking Premises during (and within two hours before and after) MLB Events, and Other Events expecting to have an attendance of at least 5,000 people. "Ambush Advertising" means any promotions, contests or other sponsorship activation activities directed at undercutting the value or impact of a competitor's advertising signage or sponsorship at the Stadium Premises or the Soccer Stadium (as defined in the Operating Agreement).

(f) Nothing in this Agreement shall limit the Team Affiliates' exclusive ownership of, and rights to exercise and exploit, the Promotional Rights as set forth in the Operating Agreement. Such exclusive exercise and exploitation shall extend to the Parking Premises with respect to Stadium Events, and the City shall not exercise or exploit, or authorize or permit the exercise or exploitation of, any such rights (e.g., the City shall not permit MLB Home Games to be broadcast from the Parking Premises).

(g) The following uses shall not be permitted within the Parking Premises, unless the Stadium Operator otherwise provides its prior written consent: (i) ticket brokerage businesses (other than brokerage services provided by a Team Affiliate for Major League Baseball games), (ii) retail businesses whose primary business directly competes with the naming rights sponsors of the Baseball Stadium at the time the retail business is established at the Parking Premises, (iii) QSRs (as defined in the Operating Agreement), (iv) portable or temporary food, or the give-away of food or beverage, during the period from three (3) hours before and one (1) hour after MLB Home Games, or other Stadium Events expected to have attendance of at least 5,000 people, (v) the sale of beer in an outdoor bar (beer garden) within one hour before MLB Home Games, or other Stadium Events expected to have attendance of at least 5,000 people, and (vi) the promotion and sale of baseball branded or themed memorabilia and merchandise by persons other than a Team Affiliate. The City shall not permit the use of the Parking Premises that in any material respect interferes with the operation of the Baseball Stadium for MLB Home Games, or other Stadium Events expected to have attendance of at least 5,000 people.

ARTICLE VII  
[Omitted]  
ARTICLE VIII

DEFAULTS AND REMEDIES

8.1 Stadium Operator Default. Each of the following shall constitute a default by the Stadium Operator hereunder (a “Stadium Operator Default”):

(a) If the Stadium Operator fails to pay or remit any amount payable by the Stadium Operator under this Agreement and fails to cure the same within twenty (20) days after written notice thereof to the Stadium Operator from the City.

(b) If the Stadium Operator shall breach any of the other covenants or provisions in this Agreement and such failure is not cured within forty (40) days after written notice thereof is given to the Stadium Operator by the City; provided, however, that if it is not reasonably possible to cure such breach within such forty (40)-day period, such cure period shall be extended for up to one hundred eighty (180) days following the giving of the original notice if within forty (40) days after such written notice the Stadium Operator commences and thereafter diligently pursues the cure.

8.2 Government Party Default.

8.2.1 Each of the following shall constitute a default by the City hereunder (a “City Default”):

(a) If the City fails to pay or remit any amount payable by it under this Agreement and fails to cure the same within twenty (20) days after written notice thereof to the City.

(b) If the City shall breach any of the other covenants or provisions in this Agreement and such failure is not cured within forty (40) days after written notice thereof is given to the City; provided, however, that if it is not reasonably possible to cure such breach within such forty (40)-day period, such cure period shall be extended for up to one hundred eighty (180) days following the giving of the original notice if within forty (40) days after such written notice the City commences and thereafter diligently pursues the cure.

8.2.2 Each of the following shall constitute a default by the County hereunder (a “County Default”):

(a) If the County fails to pay or remit any amount payable by it under this Agreement and fails to cure the same within twenty (20) days after written notice thereof to the County.

(b) If the County shall breach any of the other covenants or provisions in this Agreement and such failure is not cured within forty (40) days after written notice thereof is given to the County; provided, however, that if it is not reasonably possible to cure such breach within such forty (40)-day period, such cure period shall be extended for up to one

hundred eighty (180) days following the giving of the original notice if within forty (40) days after such written notice the County commences and thereafter diligently pursues the cure.

### 8.3 Remedies.

(a) Subject to complying with Article X with respect to matters that must be resolved by arbitration or Expedited ADR, as applicable, the Government Parties may institute litigation to recover damages or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) for any Stadium Operator Default.

(b) Subject to complying with Article X with respect to matters that must be resolved by arbitration or Expedited ADR, as applicable, the Stadium Operator may institute litigation to recover damages or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) for any City Default or County Default.

(c) Except with respect to rights and remedies expressly declared to be exclusive in this Agreement or the other Stadium Agreements, the rights and remedies of the Parties are cumulative and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same Default or any other Default.

(d) Any failure of a Party to exercise any right or remedy as provided in this Agreement shall not be deemed a waiver by that Party of any claim for damages it may have by reason of the Default.

(e) Notwithstanding anything to the contrary in this Agreement, the County may only provide a notice of default and exercise remedies with respect to a breach by another Party of a County Provision.

Notwithstanding anything to the contrary in this Agreement or the other Stadium Agreements, so long as the County continues to perform its obligations under the Interlocal Agreement between the County and the City, relating to the disposition of Convention Development Tax receipts for the Ballpark project (the "CDT Interlocal") even while in default under this Agreement, any recovery of damages by the City against the County under this Agreement shall be offset by any amounts the County is obligated to remit to the City pursuant to the CDT Interlocal. Alternatively, if the City elects to recover and is awarded damages against the County which include the amount the County is obligated to remit to the City pursuant to the CDT Interlocal, the County shall be relieved of its funding obligations under the CDT Interlocal as of the judgment date. Such proceeds from the recovery of damages shall be used for the repayment of any outstanding Parking Facility bonds issued to fund the Parking Facilities.

### 8.4 Self-Help Remedies.

(a) If a court of competent jurisdiction or the arbitrators or the Neutral pursuant to Article X has determined pursuant to a final judgment or award that a Stadium Operator Default has occurred and such Stadium Operator Default is continuing, in addition to

any other remedy available to the Government Parties under this Agreement, the Government Parties shall have the right, but not the obligation, to render the performance required to cure the Stadium Operator Default.

(b) If a court of competent jurisdiction or the arbitrators or the Neutral pursuant to Article X has determined pursuant to a final judgment or award that a City Default or County Default has occurred and such Default is continuing, in addition to any other remedy available to the Stadium Operator under this Agreement, the Stadium Operator shall have the right, but not the obligation, to render the performance required to cure such Default.

8.5 Termination. Notwithstanding any other provision in this Agreement to the contrary, this Agreement may not be terminated by any Party (upon a Default or otherwise), and each Party waives any right to terminate it may have at law or in equity, except (a) as provided in Sections 3.3, and (b) this Agreement shall automatically terminate upon a termination of the Construction Administration Agreement in accordance with its terms and with the consequences set forth therein. Notwithstanding the foregoing, if this Agreement terminates as a result of a termination of the Operating Agreement pursuant to Section 17.5.2(c) thereof, then the City shall have the right to institute litigation to recover damages or to obtain any other remedy at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) as if such termination would constitute a Stadium Operator Default. Further, if the Construction Administration Agreement is terminated pursuant to Section 11.1.4 of the Construction Administration Agreement, then each of the Parties who are not in Default under the Construction Administration Agreement shall have the right to institute litigation against the Defaulting Party to recover damages arising under this Agreement or to obtain any other remedy available at law or in equity (including specific performance, permanent, preliminary or temporary injunctive relief, and any other kind of equitable remedy) relating to the Parking Facilities.

8.6 Exclusive Remedies. The rights and remedies conferred upon or reserved to the Parties in this Article VIII are intended to be the exclusive remedies available to each of them upon a breach or default by the other Parties, except as may be otherwise expressly set forth in this Agreement or in any of the other Stadium Agreements.

## ARTICLE IX

### INDEMNIFICATION

#### 9.1 Indemnification by Stadium Operator.

(a) Except as otherwise provided in this Agreement or the other Stadium Agreements, the Stadium Operator shall indemnify, defend and hold harmless the City and the County and their respective officers, employees, attorneys, agents and instrumentalities (collectively, "Government Indemnitees") from and against any and all losses, liabilities, damages, suits, claims, judgments and expenses (including reasonable attorneys' fees) (collectively, "Losses") incurred by a Government Indemnitee and caused by any of the following occurring during the Term:

- (i) any breach of this Agreement by the Stadium Operator; or
- (ii) any negligence or willful misconduct of the Stadium Operator or its contractors, employees or agents.

(b) Notwithstanding the provisions of Section 9.1(a), the Stadium Operator shall not be required to indemnify for any Losses arising from or in connection with:

(i) any injury to or death of a Person or any damage to property (including loss of use) to the extent caused by the negligence or willful act of any Government Indemnatee or their respective representatives or contractors;

(ii) any violation by the City or the County of any provision of this Agreement, any other Stadium Agreement or any Applicable Law or the insurance policies referred to in Exhibit D;

(iii) any other matter for which the City or the County is obligated to provide indemnification under this Agreement or any other Stadium Agreement; or

(iv) any Losses arising from or relating to a Force Majeure.

## 9.2 Indemnification by City and County.

(a) City does hereby agree to indemnify and hold harmless the Stadium Operator and the Team (collectively, "Stadium Operator Indemnitees") to the extent and within the limitations of Section 768.28 Fla. Stat., and subject to the provisions of that Statute whereby the City shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum set forth in said statute, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum set forth in said statute, from any and all personal injury or property damage claims, liabilities, losses and causes of action arising from the same claim which may arise solely as a result of the negligence of the City in connection with its rights and obligations under this Agreement. The City expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the City shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Stadium Operator Indemnitees as herein provided.

(b) The County does hereby agree to indemnify and hold harmless the Stadium Operator Indemnitees to the extent and within the limitations of Section 768.28 Fla. Stat., and subject to the provisions of that Statute whereby the County shall not be held liable to pay a personal injury or property damage claim or judgment by any one person which exceeds the sum set forth in said statute, or any claim or judgments of portions thereof, which, when totaled with all other occurrences, exceeds the sum set forth in said statute, from any and all personal injury or property damage claims, liabilities, losses and causes of action arising from the same claim which may arise solely as a result of the negligence of the County in connection with its rights and obligations under this Agreement. The County expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the County shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Stadium Operator Indemnitees as herein provided.

(c) Notwithstanding the provisions of Sections 9.2(a) and (b), the Government Parties shall not be required to indemnify for any Losses arising from or in connection with:

(i) any injury to or death of a Person or any damage to property (including loss of use) to the extent caused by the negligence or willful act of the Stadium Operator or any of its Affiliates or its representatives or contractors;

(ii) any violation by the Stadium Operator or its Affiliate of any provisions of this Agreement, any other Stadium Agreement or any generally Applicable Law;

(iii) any other matter for which the Stadium Operator or its Affiliate is obligated to provide indemnification under this Agreement or any other Stadium Agreement; or

(iv) any Loss arising from or relating to a Force Majeure.

### 9.3 Indemnification Procedures.

(a) If any Person entitled to indemnification pursuant to this Article IX (an “Indemnified Party”) shall discover or have actual notice of facts that have given rise, or which may give rise to, a claim for indemnification under this Article IX, or shall receive notice of any action or proceeding of any matter for which indemnification may be claimed (each, a “Claim”), the Indemnified Party shall, within twenty (20) days following service of process or other written notification of such claim (or within such shorter time as may be necessary to give the Person obligated to indemnify the Indemnified Party (the “Indemnitor”) a reasonable opportunity to respond to such service process or notice of claim), and within twenty (20) days after any other such notice, notify the Indemnitor in writing thereof together with a statement of such information respecting such matter as the Indemnified Party then has; provided, however, the failure to notify the Indemnitor shall not relieve the Indemnitor from any liability which it may have to the Indemnified Party except and solely to the extent that such failure or delay in notification shall have adversely affected the Indemnitor’s ability to defend against, settle or satisfy any such Claim.

(b) The Indemnitor shall be entitled, at its cost and expense, to contest or defend any such Claim by all appropriate legal proceedings through attorneys of its own choosing, provided the Indemnitor shall have first notified the Indemnified Party of its intention to do so within twenty (20) days after its receipt of such notice from the Indemnified Party. If within twenty (20) days following such notice from the Indemnified Party, the Indemnified Party has not received notice from the Indemnitor that such claim will be contested or defended by the Indemnitor, the Indemnified Party shall have the right to (i) authorize attorneys satisfactory to it to represent it in connection therewith and/or (ii) subject to the approval of the Indemnitor, which approval shall not be unreasonably withheld or delayed, at any time settle, compromise or pay such Claim, in either of which events the Indemnified Party shall be entitled to indemnification thereof as provided in this Article IX. These provisions in no way prevent the Indemnified Party from taking whatever actions are necessary to defend the Claim during the time before the Indemnified Party learns whether the Indemnitor will contest or defend the Claim. Attorneys’ fees and costs accrued by the Indemnified Party during this time are indemnifiable. If required by the Indemnitor, the Indemnified Party shall cooperate fully with the Indemnitor and its

attorneys in contesting or defending any such Claim or, if appropriate, in making any counterclaim or cross complaint against the Person asserting the Claim against the Indemnified Party, but the Indemnitor will reimburse the Indemnified Party for any expenses reasonably incurred by the Indemnified Party in so cooperating.

(c) The Indemnitor shall pay to the Indemnified Party in cash all amounts to which the Indemnified Party may become entitled by reason of the provisions of this Article IX, such payment to be made within thirty (30) days after such amounts are finally determined either by mutual agreement or by judgment of a court of competent jurisdiction. Notwithstanding that the Indemnitor is actively conducting a defense or contest of any Claim against an Indemnified Party, such Claim may be settled, compromised or paid by the Indemnified Party without the consent of the Indemnitor; provided however that if such action is taken without the Indemnitor's consent, its indemnification obligations with respect thereto shall be terminated and the Indemnitor shall have no obligation to the Indemnified Party. The Indemnitor shall have the right to settle, compromise or pay any Claim being defended by the Indemnitor without the Indemnified Party's consent so long as such settlement or compromise does not cause the Indemnified Party to incur any present or future material costs, expense, obligation or liability of any kind or nature, or require any admission or action or forbearance from action by the Indemnified Party that would have a material adverse effect on the Indemnified Party.

(d) In the event any Claim involves matters partly within or partly outside the scope of the indemnification by an Indemnitor hereunder, then the attorneys' fees, costs and expenses of contesting or defending such Claim shall be equitably allocated between the Indemnified Party and the Indemnitor. If a conflict of interest exists between the Indemnified Party and the Indemnitor with respect to any Claim, the Indemnified Party shall have the right to participate in the defense of such Claim with separate counsel chosen by the Indemnified Party, subject to the reasonable approval of the Indemnitor, and paid by the Indemnified Party.

9.4 Survival. The obligations contained in this Article IX will survive the expiration or earlier termination of this Agreement but only with respect to an event that may give rise to a Claim that in turn gives rise to a right of indemnification under this Article IX and which such event occurs prior to such expiration or termination.

## ARTICLE X

### ARBITRATION

10.1 Arbitration. Subject to Section 10.2, any dispute or controversy among the Parties or their Affiliates arising under or with respect to this Agreement shall be resolved exclusively by final and binding arbitration in the City of Miami before a panel of three independent arbitrators under the auspices and pursuant to the rules of the American Arbitration Association ("AAA"). Unless otherwise provided in this Agreement, the arbitration hearing will be scheduled so that it is completed within sixty (60) days from the date of the filing of the arbitration and a written award is rendered within forty-five (45) days from the date of such completion. Arbitrators will be chosen from the AAA Large and Complex Case Panel of Arbitrators except that none of the arbitrators shall have performed, directly or indirectly, a material amount of work for the County, the City or a Team Affiliate within the five (5)-year



period immediately preceding the date of their selection or intend or desire to perform work for the County, the City or a Team Affiliate within one (1) year following the date of their selection. Issues determined by arbitration pursuant to this Section 10.1 shall be given preclusive or collateral estoppel effect. The decision rendered by the arbitrators shall be final and conclusive and binding upon the Parties. Judgment may be entered on the arbitrators' award in any court having jurisdiction. Each Party shall bear its own attorneys' fees and costs relating to the arbitration, but the costs and fees of the panel and the AAA shall be borne equally by the Parties to the arbitration.

#### 10.2 Expedited ADR.

(a) Disputes or deadlocks among any of the Parties arising under or with respect to Article IV (each, an "Expedited ADR Dispute"), shall be submitted to expedited alternative dispute resolution ("Expedited ADR") under this Section 10.2. The Parties have mutually agreed to establish a panel ("Panel") of at least three (3) or more arbitrators (with the lead Panel member to be reached by mutual agreement) qualified to resolve design and construction-related contract disputes to be available to resolve Expedited ADR Disputes. The Parties shall exchange proposed Panel compositions within ten (10) days following the effective date of this Agreement and agree on the Panel (and the lead Panelist) within thirty (30) days following the effective date of this Agreement. The arbitrator selected from the approved Panel to resolve each Expedited ADR Dispute shall be designated as the Person (the "Neutral") to whom Expedited ADR Disputes are to be submitted for resolution under this Section 14.2.

(b) The Neutral shall not have the power or authority to award any damages or require any payments other than those described in the last paragraph of this Section 10.2. There shall be no discovery permitted with respect to any Expedited ADR other than that required by the Neutral and each of the Parties who is party to such Expedited ADR shall present its position with respect to the issue(s) to be determined by such Expedited ADR by an oral presentation to the Neutral. Each of the Parties who is party to such Expedited ADR shall be given the opportunity to hear and orally respond to the others' presentations to the Neutral, and to present documents to the Neutral in support of such Party's position. The Neutral shall have the right to limit the documents presented to the Neutral to assure a prompt resolution of the issue(s) to be determined by the Neutral. The Parties who are party to such Expedited ADR may have their respective counsels present at such Expedited ADR, but there shall be no examination or cross-examination of witnesses other than as required or permitted by the Neutral.

(c) The Parties shall use Expedited ADR exclusively, rather than litigation or arbitration, as a means of resolving all Expedited ADR Disputes. The Expedited ADR will be scheduled so that it is completed and a decision is rendered within twenty (20) days from the date of the filing of the Expedited ADR Dispute, and, if requested by the Parties, a written award is rendered within twenty (20) days of such completion. The written award by the Neutral shall be the binding, final determination on the merits of the Expedited ADR Dispute, and shall preclude any subsequent litigation or arbitration on such merits. The Parties agree that any disputes that arise out of such a written award shall be resolved exclusively by Expedited ADR pursuant to this Section 10.2, provided that the Parties may institute legal proceedings in a court of competent jurisdiction to enforce judgment upon an Expedited ADR award in accordance with generally Applicable Law. Each Party shall bear its own attorneys' fees and costs relating to the

Expedited ADR, but the costs and fees of the Neutral shall be borne equally by the Parties to the Expedited ADR.

10.3 No Indirect Damages. In no event shall any party be liable under any provision of this Agreement for any special, indirect, incidental, consequential, exemplary, treble or punitive damages, in contract, tort or otherwise, whether or not provided by statute and whether or not caused by or resulting from the sole or concurrent negligence or intentional acts of such party or any of its affiliates or related parties. Notwithstanding the foregoing, this limitation of liability shall not apply to any indemnification for third-party claims available at law or pursuant to, and subject to the limitations in, Article IX. The preceding limitation shall not be a basis for any claim or argument that a dispute should not be arbitrated.

## ARTICLE XI

### MISCELLANEOUS

11.1 Notices. Any notice, consent or other communication under this Agreement shall be in writing and shall be considered given when delivered in person or sent by facsimile or electronic mail (provided that any notice sent by facsimile or electronic mail shall simultaneously be sent personal delivery, overnight courier or certified mail as provided herein), one (1) Business Day after being sent by reputable overnight carrier, or three (3) Business Days after being mailed by certified mail, return receipt requested, to the Parties at the addresses set forth below (or at such other address as a Party may specify by notice given pursuant to this Section to the other Parties):

If to the County:

To the attention of:

County Manager  
111 NW 1<sup>st</sup> Street, Suite 2900  
Miami, Florida 33128  
Attn: George M. Burgess

With a copy to:

County Attorney  
111 NW 1<sup>st</sup> Street, Suite 2810  
Miami, Florida 33128  
Attn: Robert A. Cuevas, Jr.  
and Geri Keenan

If to the City:

To the attention of:

City Manager  
444 SW 2<sup>nd</sup> Avenue, 10<sup>th</sup> Floor  
Miami, Florida 33130  
Attn: Pedro G. Hernandez

With a copy to:

City Attorney  
444 SW 2<sup>nd</sup> Avenue, 9<sup>th</sup> Floor  
Miami, Florida 33130  
Attn: Julie O. Bru  
and Olga Ramirez-Seijas

If to the Stadium Operator:

To the attention of:

2267 Dan Marino Boulevard  
Miami, Florida 33056  
Attn: David Samson  
and Derek Jackson

With a copy to:

Proskauer Rose LLP  
1585 Broadway  
New York, New York 10036  
Attn: Wayne Katz

Notwithstanding the foregoing, periodic and ordinary course notices, deliveries and communications between the Stadium Operator and the Government Representatives may be given (and shall be considered given when provided) by any of the means set forth above, and to the address provided by the Government Representatives to the Stadium Operator from time to time.

11.2 Merger Clause. This Agreement, including the schedules and exhibits to this Agreement, and the other Stadium Agreements contain the sole and entire agreement among the Parties and their Affiliates with respect to their subject matter, are fully integrated, and supersede all prior written or oral agreements among them relating to that subject matter, including the BSA. Except as specifically set forth in this Agreement and the other Stadium Agreements, there shall be no warranties, representations or other agreements among the Parties or their Affiliates in connection with the subject matter hereof or thereof.

11.3 Amendment. This Agreement may not be amended or modified except in a writing signed by the Parties affected by the amendment or modification, or except as otherwise provided in this Agreement.

11.4 Binding Effect. This Agreement shall be binding upon the Parties and their respective successors and assigns, subject to the limitations on Transfer stated herein.

11.5 Waiver. Waiver by any Party of any breach of any provision of this Agreement shall not be considered as or constitute a continuing waiver or a waiver of any other breach of the same or any other provision of this Agreement. Any waiver must be in writing and signed by all Parties whose interests are being waived.

11.6 Nonrecourse Liability of Stadium Operator Personnel. Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their

criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), the officers, directors, partners, shareholders, members, employees and agents of the Stadium Operator, the Team and the Team Affiliates (the "Stadium Operator Personnel") shall not in any way be liable under or with respect to this Agreement; no deficiency or other monetary or personal judgment of any kind shall be sought or entered against any of the Stadium Operator Personnel with respect to liability under or with respect to this Agreement; no judgment with respect to liability under or with respect to this Agreement shall give rise to any right of execution or levy against the assets of any of the Stadium Operator Personnel; and the liability of the Stadium Operator under this Agreement shall be limited to the assets of the Stadium Operator.

11.7 Non-Recourse Liability of City Personnel. Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), no member, elected or appointed official, officer, employee or agent of the City (the "City Personnel") shall not in any way be liable under or with respect to this Agreement to the Stadium Operator, or any successor in interest to the Stadium Operator; no deficiency or other monetary or personal judgment of any kind shall be sought or entered against any of the City Personnel with respect to liability under or with respect to this Agreement; and no judgment with respect to liability under or with respect to this Agreement shall give rise to any right of execution or levy against the assets of any of the City Personnel.

11.8 Non-Recourse Liability of County Personnel. Notwithstanding and prevailing over any contrary provision or implication in this Agreement and except for their criminal acts with respect to this Agreement (i.e., acts which would constitute crimes were they prosecuted for and convicted of such acts), no member, elected or appointed official, officer, employee or agent of the County (the "County Personnel") shall not in any way be liable under or with respect to this Agreement to the Stadium Operator, or any successor in interest to the Stadium Operator; no deficiency or other monetary or personal judgment of any kind shall be sought or entered against any of the County Personnel with respect to liability under or with respect to this Agreement; and no judgment with respect to liability under or with respect to this Agreement shall give rise to any right of execution or levy against the assets of any of the County Personnel.

11.9 Assignment.

(a) The Stadium Operator shall not sell, assign, convey, transfer, pledge or otherwise dispose of voluntarily or involuntarily (each, a "Transfer") this Agreement or any of its rights under this Agreement without the prior written consent of the City; provided, however, that the Stadium Operator may, without the prior written consent of the City or any other Governmental Authority:

(i) Transfer all of its rights hereunder to any Person (or Affiliate of any Person) that acquires directly or indirectly the controlling interest in the Team or the Major League Baseball franchise owned by the Team with the approval of Major League Baseball, provided that (A) such transferee executes and delivers to the City its agreement, in form and substance reasonably satisfactory to the City, to assume all of the obligations of the Stadium Operator under this Agreement and to keep and perform all provisions of this Agreement, and

(B) such transferee or its Affiliates assume all of the other obligations of the Stadium Operator and its Affiliates under the other Stadium Agreements;

(ii) Transfer any of all of its rights hereunder to the Team and/or one or more Team Affiliates; and

(iii) pledge or collaterally assign any or all of its rights hereunder to any provider, guarantor or insurer of financing to the Stadium Operator or its Affiliates, provided that such pledge or collateral assignment shall not relieve the Stadium Operator of its obligations under this Agreement. The provisions of Section 14.8 of the Operating Agreement shall apply to this Agreement as if contained herein.

(b) The Stadium Operator shall be relieved of its obligations under this Agreement from and after the date of a Transfer pursuant to Section 11.9(a)(i) or (ii) above.

(c) Other than a Transfer of the City's rights and obligations regarding the operation of the Parking Facilities to MPA, the City and the County shall not Transfer this Agreement or any of their rights hereunder, and the City shall not Transfer its ownership of the Parking Premises, without the prior written consent of the Stadium Operator.

(d) Any Transfer or attempted Transfer by a Party in violation of this Section 11.9 shall be void.

#### 11.10 Consent of Parties.

Whenever in this Agreement the consent or approval of any Party is required, such consent or approval: (i) shall not be unreasonably or arbitrarily withheld, conditioned or delayed unless specifically provided to the contrary in this Agreement; (ii) shall not be effective unless it is in writing; and (iii) shall apply only to the specific act or transaction so approved or consented to and shall not relive the other Parties of the obligation of obtaining the consenting Party's prior written consent or approval to any future similar act or transaction. Notwithstanding anything contained in this Agreement, in the event a consent or approval is required, by generally Applicable Law, to be granted by the Commission or Board, then such consent or approval shall be subject to the Commission's or Board's standard process of review.

#### 11.11 Party Representatives.

(a) The County Manager or his designee (the "County Representative") shall act as liaison and contact person between the Stadium Operator and the County in administering and implementing the terms of this Agreement. The City Manager or his designee (the "City Representative") and, together with the County Representative, the "Government Representatives") shall act as liaison and contact person between the Stadium Operator and the City in administering and implementing the terms of this Agreement. The County Manager and City manager shall notify the other Parties in writing if they designate (or re-designate) another individual to serve as County Representative or City Representative, respectively. Each of the County Representative and the City Representative shall have the power, authority and right, on behalf of the County and City, respectively, and without any further resolution or action of the Board or Commission, to:

(i) review, approve and consent, in writing, to documents and requests required or allowed by the Stadium Operator to be submitted to the Government Representative(s) pursuant to this Agreement;

(ii) consent to and approve, in writing, actions, events and undertakings by the Stadium Operator or other Persons for which consent and/or approval is required from the Government Representatives(s);

(iii) make appointments, in writing, of individuals or entities required to be appointed or designated by the Government Representative(s) in this Agreement;

(iv) sign any and all documents on behalf of the County and/or City, as the case may be, necessary or convenient to the foregoing approvals, consents and appointments; and

(v) grant written time extensions that extend deadlines or time periods up to 180 days, and that do not otherwise materially affect the rights or obligations of the County or City, as the case may be, under this Agreement.

However, nothing contained herein shall preclude the County Representative and the City Representative from seeking Board and/or Commission approval for the delegated authority contained in 11.11(a)(i)-(v). In addition, and notwithstanding any of the foregoing, the Government Representatives shall be required to seek Board and/or Commission approval, as applicable, for any approvals, consents, actions, events or undertakings by any Party or any other third parties that would violate, alter, or ignore the substantive provisions of this Agreement, or that would create a financial obligation, cost, or expense to the County and/or the City that is greater than the delegated procurement authority of the County Mayor or City Manager, as set forth in the applicable County and City Charters, County and City Codes, and any related administrative or implementing orders. Any consent, approval, decision, determination or extension under this Agreement by the County Representative or the City Representative shall be binding on the County and the City, respectively. Notwithstanding and prevailing over anything to the contrary in this Section and this Agreement, the parties agree that the Board may at any time rescind any or all delegations of authority to the County Representative. In such instances, the approval, consent or action sought shall be subject to approval by the Board and, if a time frame for the County Representative's approval, consent or action is set forth in this Agreement, the Board shall consider the matter no later than the 2<sup>nd</sup> regularly scheduled meeting of the Board after committee consideration. All such time frames for County Representative approvals set forth in this Agreement shall be deemed amended accordingly. The Stadium Operator and any other Person dealing with the County or City in connection with this Agreement or any matter governed by this Agreement may rely and shall be fully protected in relying upon the authority of its Government Representative to act for and bind the County and City, as the case may be, in any such matter. The County and City shall cause its Government Representative to comply with all of the provisions of this Agreement.

(b) The President of the Stadium Operator or his designee (the "Stadium Operator Representative") shall act as liaison and contact person between the Stadium Operator, on the one hand, and the County and/or the City, on the other hand, in administering and

implementing the terms of this Agreement. The President of the Stadium Operator shall notify the other Parties in writing if he designates (or re-designates) another individual to serve as Stadium Operator Representative. The Stadium Operator Representative shall have the power, authority and right, on behalf of the Stadium Operator, and without any further resolution or action of the Stadium Operator to:

(i) review, approve and consent to documents and requests required or allowed by the Government Representative(s), the County and/or the City, as the case may be, to be submitted to the Stadium Operator pursuant to this Agreement;

(ii) consent to and approve actions, events and undertakings by the Government Representatives(s), the County and/or the City, as the case may, or other Persons for which consent and/or approval is required from the Stadium Operator;

(iii) make appointments of individuals or entities required to be appointed or designated by the Stadium Operator in this Agreement;

(iv) sign any and all documents on behalf of the Stadium Operator necessary or convenient to the foregoing approvals, consents and appointments; and

(v) grant waivers and enter into amendments to this Agreement.

Any consent, approval, decision, determination, waiver or amendment under this Agreement by the Stadium Operator Representative shall be binding on the Stadium Operator. The Government Parties and any other Person dealing with the Stadium Operator in connection with this Agreement or any matter governed by this Agreement may rely and shall be fully protected in relying upon the authority of the Stadium Operator Representative to act for and bind the Stadium Operator in any such matter. The Stadium Operator shall cause the Operator Stadium Representative to comply with all of the provisions of this Agreement.

11.12 Headings. The headings in this Agreement are included for convenience and identification only and are in no way intended to describe, interpret, define or limit the scope, extent or intent of this Agreement or of its provisions.

11.13 General Interpretive Provisions. Whenever the context may require, terms used in this Agreement shall include the singular and plural forms, and any pronoun shall include the corresponding masculine and feminine forms. The term "including", whenever used in any provision of this Agreement, means including but without limiting the generality of any description preceding or succeeding such term. Each reference to a Person shall include a reference to such Person's successors and assigns. All references to "Articles", "Sections", "Schedules" or "Exhibits" shall be references to the Articles, Sections, Schedules and Exhibits to this Agreement, except to the extent that any such reference specifically refers to another document. Each of the Parties has agreed to the use of the particular language of the provisions of this Agreement and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the draftsman.

11.14 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Applicable Law, but if any

provision of this Agreement is held to be prohibited by or invalid under generally Applicable Law, the parties to this Agreement shall, to the extent possible, negotiate a revised provision which (a) complies with generally Applicable Law, (b) does not alter any of the substantive rights, obligations or liabilities of any Party under this Agreement or any other Stadium Agreement, and (c) confers upon the Parties the benefits intended to be conferred by the invalid provision; and the remaining provisions of this Agreement, if capable of substantial performance, shall be enforced as if this Agreement was entered into without the invalid provision.

11.15 Further Assurances. The Parties, whenever and as often as each shall be reasonably requested to do so by another Party, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this Agreement and each of the other Stadium Agreements. The City shall assist and cooperate with the Stadium Operator and its Affiliates in connection with their financing activities, including by executing such documents as the Stadium Operator or its Affiliates may reasonably request to facilitate such financings.

11.16 Absence of Third-Party Beneficiaries. Except for the Team Affiliates, nothing in this Agreement, express or implied, is intended to (a) confer upon any Person other than the Parties and their permitted successors and assigns any rights or remedies under or by reason of this Agreement as a third-party beneficiary or otherwise except as specifically provided in this Agreement; or (b) authorize anyone not a Party to maintain an action pursuant to or based upon this Agreement.

11.17 Governing Law. This Agreement and the interpretation of its terms shall be governed by the laws of the State, without application of conflicts of law principles. Venue for any judicial, administrative or other action to enforce or construe any term of this Agreement or arising from or relating to this Agreement shall lie exclusively in Miami, Florida.

11.18 Time of Essence. Time is of the essence with respect to the performance of each of the covenants and obligations contained in this Agreement.

11.19 Relationship of Parties. No partnership or joint venture is established among the Parties under this Agreement. Except as expressly provided in this Agreement, no Party or its officers, elected or appointed officials, employees, agents, independent contractors or consultants shall be considered employees or agents of any other Party or to have been authorized to incur any expense on behalf of any other Party or to act for or to bind any other Party. No Party shall be liable for any acts, omissions or negligence on the part of the other Party or their employees, officials, agents, independent contractors, licensees and invitees.

11.20 Sovereign Rights. The City and the County retain all of their respective sovereign prerogatives and rights as a city or county under State law with respect to the City Parking Project and the operation of the Parking Facilities, respectively. It is expressly understood that notwithstanding any provisions of this Agreement and the Stadium Agreements and the City's or the County's status thereunder:



(a) The City and the County retain all of its respective sovereign prerogatives and rights and regulatory authority (quasi-judicial or otherwise) as a city or a county under State law and shall in no way be estopped from withholding or refusing to issue any approvals of applications for building, zoning, planning or development under present or future laws and regulations whatever nature applicable to the planning, design, construction and development of the Parking Facilities or the operation thereof, or be liable for the same; and

(b) any City or County covenant or obligation that may be contained in this Agreement shall not bind the Board, the County's Planning and Zoning Department, Miami-Dade Department of Environmental Resources Management, the Commission or any other City, County, federal or state department or authority, committee or agency to grant or leave in effect any zoning changes, variances, permits, waivers, contract amendments, or any other approvals that may be granted, withheld or revoked in the discretion of the City, the County or other applicable governmental agencies in the exercise of its police power.

11.21 Force Majeure. Except as otherwise herein expressly provided, if any Party shall be delayed in the performance of any covenant or obligation hereunder (other than any covenant or obligation to pay money), as a result of any Force Majeure, then the performance of such covenant or obligation shall be excused for the period of such delay and the period for the performance of such covenant or obligation shall be extended by the number of days equivalent to the number of days of the impact of such delay. In response to and during any delay caused by a Force Majeure, the Parties shall at all times act diligently and in good faith to bring about the termination or removal of the Force Majeure as promptly as reasonably possible and any Party seeking an excuse of performance due to such Force Majeure shall work diligently and in good faith to reduce or eliminate any damage, cost or delay caused by such Force Majeure.

11.22 Major League Baseball Requirements. Notwithstanding any other provision of this Agreement, except for the last sentence in this Section, the obligations of the Stadium Operator under this Agreement shall in all respects be subordinate to the approval requirements and other Baseball Rules and Regulations as they are applied generally to all Major League Baseball clubs. The City and the County agree not to seek an injunction or similar relief against Major League Baseball to enjoin its implementation of the Baseball Rules and Regulations. In the event that any act or omission taken by the Stadium Operator to comply with Baseball Rules and Regulations materially affects the rights of the City or the County under this Agreement or deprives the City or the County of the essential benefits of this Agreement, the Parties will work in good faith to amend the terms of this Agreement to neutralize the effect. The Stadium Operator agrees in any event that if compliance by it with Baseball Rules and Regulations results in a failure of the Stadium Operator to fulfill its obligations under this Agreement, the City and the County may enforce remedies for the Stadium Operator's failure to fulfill its obligations as provided in this Agreement and the other Stadium Agreements.

#### 11.23 Mutual Covenants.

(a) The Parties, whenever and as often as each shall be reasonably requested to do so by another Party or by the Team, shall execute or cause to be executed any further documents and take any further actions as may be reasonably necessary or expedient in order to consummate the transactions provided for in, and to carry out the purpose and intent of, this

Agreement and each of the other Stadium Agreements, except to the extent such actions by the a Government Party requires approval by the Board or the Commission, as applicable.

(b) No Party shall terminate this Agreement on the ground of ultra vires acts or for any illegality or on the basis of any challenge to the enforceability of this Agreement, except as otherwise permitted in this Agreement or in the other Stadium Agreements. Subject to the preceding sentence, no such challenge may be asserted by any Party except by the institution of a declaratory action in which the Parties and the Team are parties.

(c) Each Party shall vigorously contest any challenge to the validity, authorization or enforceability of this Agreement (a "Challenge"), whether asserted by a taxpayer or any other Person, except where to do so would be deemed by such Party as presenting a conflict of interest or would be contrary to Applicable Law. The applicable Party shall pay all of the legal fees, costs and other expenses incurred by it in contesting the Challenge. The applicable Party shall consult with the Parties in contesting any Challenge. The Parties shall take all ministerial actions and proceedings reasonably necessary or appropriate to remedy any apparent invalidity, lack or defect in authorization, or illegality, or to cure any other defect, which has been asserted or threatened. However, the County or City, shall not be obligated to take any action which requires approval of the Board or Commission, as the case may be, or which is deemed by the County or City to present a conflict of interest or is deemed by the County or City to be contrary to Applicable Law.

(d) In exercising its rights and fulfilling its obligations under this Agreement, each Party shall act in good faith. Notwithstanding the foregoing, each party acknowledges that in each instance under this Agreement where a Party is obligated to exercise good faith, to use good faith efforts or to use diligent reasonable efforts or other similar efforts, such Party shall not be required to expend any funds, or grant any other consideration of any kind, in the performance of such undertaking, and each Party further acknowledges that the obligation of any Party to act in good faith, undertake good faith efforts, or to use diligent reasonable efforts or other similar efforts does not constitute a warranty, representation or other guaranty that the result which the Parties are attempting to achieve will be successfully achieved and no Party shall be liable for any failure to achieve the result or results intended so long as the Party has complied with its obligation to act in accordance with the applicable standard.

11.24 Anti-Discrimination Clause. In accordance with Applicable Law, the Parties shall not discriminate against any person or group of persons on the basis of race, sex, religion, national or ethnic origin, age or disability.

11.25 Valid Agreement. Each Government Party agrees for the benefit of the Stadium Operator that the Stadium Operator shall have the right to collect damages and otherwise enforce this Agreement against such Government Party with respect to any breach of this Agreement by such Government Party, including for any third party claims against the Stadium Operator arising from any breach of this Agreement by a Government Party.

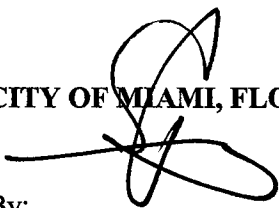
11.26 Books and Records; Audit. The Stadium Operator shall keep and maintain all books, records and documents of all kinds in any way related to the Stadium Operator's rights and obligations under this Agreement, separate and identifiable from its other books, records

and documents, and shall make such books and records available to the City for inspection, copying and audit, in accordance with Applicable Law.

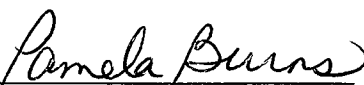
11.27 County Inspector General and Commission Auditor. The attention of the Parties is hereby directed to Section 2-1076 of the County Code establishing the Miami-Dade County Office of the Inspector General (the "OIG"), which has the authority and power to investigate County affairs and review past, present and proposed County programs, accounts, records, contracts and transactions. The OIG contract fee shall not apply to this Agreement or any other Stadium Agreement, and the City and the Team Affiliates shall not be responsible for any expense reimbursements or other amounts payable to the OIG or its contractors. The attention of the Parties is hereby directed to Section 2-481 of the County Code related to the Commission Auditor.

11.28 Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all Parties had executed the same document. All counterparts shall be construed together and shall constitute one instrument.

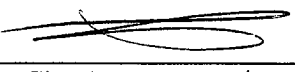
CITY OF MIAMI, FLORIDA

By:   
Pedro G. Hernandez  
City Manager  
City of Miami

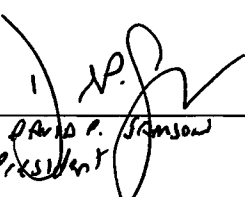
ATTEST:

By:   
Pamela Burns  
City Clerk 4-10-09

APPROVED AS TO FORM  
AND CORRECTNESS:

  
City Attorney  
JULIE O. BRUMFIELD

MARLINS STADIUM OPERATOR, LLC


By:   
Name: David P. Samson  
Title: President

With respect to the County Provisions only:

MIAMI-DADE COUNTY, FLORIDA

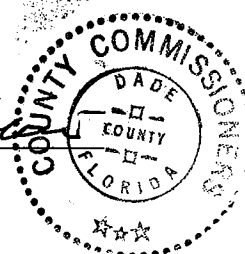
By:   
George M. Burgess  
County Manager  
Miami-Dade County

ATTEST:

By:   
Clerk of the Board

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

  
County Attorney



APPROVED AS TO INSURANCE  
REQUIREMENTS:

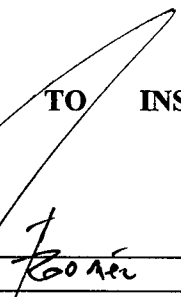
By:   
Name: Lee Ann Boehm  
Risk Management Director

Exhibit List

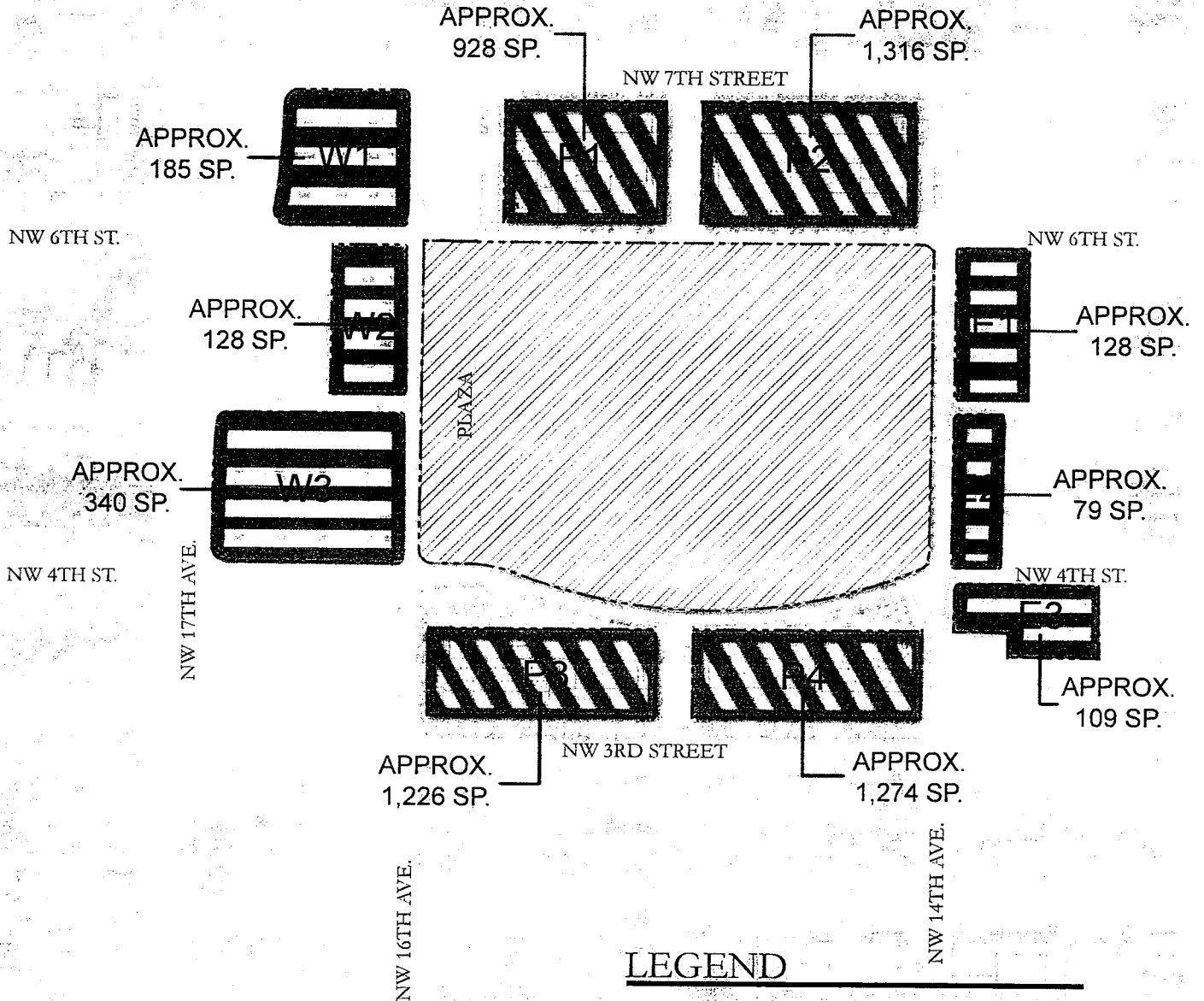
Exhibit A – Entire Site, Baseball Stadium Site and City Parking Site

Exhibit B – Parking Criteria

Exhibit C – Operating Standard

Exhibit D – Insurance

Baseball Stadium Site/ City Parking Site  
Exhibit A



M I A M I B A L L P A R K

21 JANUARY 2009

BASEBALL STADIUM SITE, PARKING FACILITIES

319



NORTH

HOK SVE

FLORIDA MARLINS  
CITY OF MIAMI  
MIAMI - DADE COUNTY

EXHIBIT B  
PARKING CRITERIA

General

Approximately 5,713 parking spaces available for the Baseball Stadium, located within the Entire Site, which comprise of approximately 4,744 spaces in four (4) parking structures and 969 spaces in six (6) surface lots with the following allocation:

Description

Structured Parking Garages:

P1: Located to the East of the building that is located at the S/E corner of NW 7<sup>th</sup> Street and NW 16<sup>th</sup> Avenue.

Approximate number of spaces: 928

Number of levels: 5

Approximate total parking area: 354,700 sq. ft.

Approximate height to top tier: 47 ft.

Width of typical spaces: 9'0" on first five levels.

P2: Located at S/W corner of NW 7<sup>th</sup> Street and NW 14<sup>th</sup> Avenue.

Number of levels: 5

Approximate number of spaces: 1,316

Approximate total parking area: 495,700 sq. ft.

Approximate height to top tier: 47 ft.

Width of typical spaces: 9'0" on first five levels.

P3: Located at N/E corner of NW 3<sup>rd</sup> Street and NW 16<sup>th</sup> Avenue.

Number of levels: 6

Approximate number of spaces: 1,226

Approximate total parking area: 480,400 sq. ft.

Approximate height to top tier: 54 ft.

Width of typical spaces: 9'0" on first six levels.

P4: Located at N/W corner of NW 3<sup>rd</sup> Street and NW 14<sup>th</sup> Avenue,

Number of levels: 6

Approximate number of spaces: 1,274

Approximate total parking area: 491,400 sq. ft.

Approximate height to top tier: 54 ft.

Width of typical spaces: 9'0" on first six levels.

#### Surface Lots:

A total of six (6) lots, three (3) lots located West of NW 16<sup>th</sup> Avenue between NW 4<sup>th</sup> Street and NW 7<sup>th</sup> Street, and three (3) lots located East of NW 14<sup>th</sup> Avenue between NW 3<sup>rd</sup> Street and NW 6<sup>th</sup> Street.

Approximate number of spaces: 969

#### Design Criteria

- Approximately 5,700 to 6,000 parking spaces located within the Entire Site.
- Design should be governed as “event” style parking structure (ability to support large events).
- All ADA spaces to be located on grade level of each structured parking garage.
- Design to support a 40-minute exit time at capacity.
  - a) Plan for one exit lane for every 400/450 cars.
  - b) Ramps strategically located to accommodate required exiting time.
  - c) Build number of stairs and elevators to support the exiting criteria.
- Develop building edges that compliment the architecture of the neighborhood and the ballpark with approximately 15 feet sidewalks.
- Design Parking Facilities to support the Baseball Stadium in achieving certification via the Sustainable Buildings Program (i.e.: space for Alternative Fuel and Low Emissions Vehicles, provision for charging stations for electric vehicles (empty conduits) and space allocated for carpool vehicles, dedicated area for bicycles in one or more structured parking garage).
- Vehicular Entrance/Exit points cannot be placed on either 4<sup>th</sup> Street or 6<sup>th</sup> Street. These streets will be closed on game days.
- Lobbies to provide clear vertical circulation and to be focal points of the structure.
- Integrate parking access control system for baseball games, other events and non event days (i.e. ticket dispensers for other events and non-game days).

- Two-way traffic flow with 90 degree parking; or One -way traffic flow with 60/75 degree parking at the option of the City.
- Minimum 60' parking bays, aisle widths of 24', 9' by 18' parking stalls on all levels of each structured parking garage lot on the North and South side.
- All surface lots will consist of 9' by 18' parking stalls with markers for each stall (except for W3).
- For surface lots, except for W3, the minimum drive aisle will be 20' and all drive aisle will be paved, subject to zoning and code compliance.
- First floor must clear height of 12' to meet ADA standards.
- Ramp parking cannot exceed a 6% slope while speed ramps cannot exceed a 13% slope.
- Specifications for elevators in structured parking garages:
  - a) Ratio of 2 elevators for the first 500 parking spaces, 1 for every 500 spaces thereafter;
  - b) Minimum of 3,000 lb capacity.
- Safety and security requirements:
  - a. Well lit, and well distributed lighting systems including perimeter lighting (average of 40 foot candles at entrance, exits, stairs, and elevator lobbies, average of 10 foot candles at driving sites);
  - b. Provisions (empty conduit) for "Call for assistance" stations with blue lights, located at pertinent locations on each floor, including at the end of parking aisles, in front and inside of elevators, in lobbies and stairs;
  - c. Provisions (empty conduit) for CCTV at entrances/exits to and from the facility, elevator lobbies, and security office;
  - d. Concrete filled steel pipe bollards and curbs to protect equipment.



## EXHIBIT C

### OPERATING STANDARD

#### General:

The Parking Facilities shall be operated as "event parking" (in a manner that allows the ingress and egress of a large volume of cars in a short period of time in a safe and efficient manner) in accordance with other comparable sports facilities with adjacent parking.

All parking spaces in each Parking Facility will be individually numbered with a distinct numbering system from other Parking Facilities. Each season ticket parking pass will be associated with a specific Parking Facility (or portion thereof), as designated by the Stadium Operator. All Parking Facilities will be individually named and clearly identified for patrons to easily return to their vehicles after Stadium Events.

#### Staffing:

Personnel Standards: The City will hire qualified and well-trained personnel to operate the Parking Facilities efficiently and to assure collection, security, and reconciliation of revenues, with emphasis on customer service. All personnel will treat patrons in a courteous, professional and timely manner. All employees will wear a uniform so as to present a neat, clean and professional appearance at all times.

Types of Personnel: The City will provide sufficient personnel to operate, maintain and secure the Parking Facilities, including the following:

- Cashiers/Parking attendants to control access at entries and collect fees and/or passes to allow for the fastest entry and empty times;
- Supervisor and cashiers to reconcile cash and passes with number of parked cars at the end of each event;
- Supervisors to generally assist with ingress and egress from the parking facility in an orderly and efficient manner;
- Custodial personnel to clean i) the Parking Facilities before each Stadium Event, ii) stairs, lobbies and the elevators before each Stadium Event and as required during and after Stadium Events. Trash will be removed before each Stadium Event and dumpster areas will be sanitized as required;
- Security personnel to ensure i) patrons can access and exit the Parking Facilities in a safe manner, ii) no unauthorized person is present in or around the Parking Facilities, and iii) elevators are functioning, and the stairwells and Parking Facilities are lighted adequately. Security to periodically circulate the Parking Facilities to

prevent theft and vandalism and to assist patrons with disabled vehicles.

**Staffing Levels:** The City shall consult with the Stadium Operator with respect to its staffing levels from time to time, and at least prior to each home stand of MLB Home Games. If the parties are unable to agree to staffing levels for MLB Home Games, the City shall decide the final staffing levels, which shall not be less than the minimum staffing levels with respect to MLB Home Games:

Cashiers/Parking Attendants	26 (5 per structured lot; 1 per surface lot)
Directors	44 ( for each structured lot: 2 per floor on first 3 floors, 2 for upper floors; 2 per surface lot)
Custodial Personnel	6 (1 per structured lot; 1 for each of East and West surface lots)
Security Personnel	8 during MLB Home Games (2 for each of the structured lots, and roving in the surface lots)

**Custodial:**

The Parking Facilities, including their entrances, elevators, stairwells, aisles and ramps, will be kept in a clean condition at all times, free of odors, debris and trash.

**Maintenance and Repairs:**

The City shall keep the Parking Facilities in good maintenance and proceed with repairs as needed, including by procuring all work, labor and materials necessary to (a) maintain the Parking Facilities in good, clean, working order, (b) maintain the surfaces and striping of the Parking Facilities in good condition, (c) promptly repair or restore equipment, fixtures and other components of the Parking Facilities as a result of ordinary wear and tear or casualty of any nature (including promptly repairing elevators, signs and lighting equipment), (d) replace equipment, fixtures and components of the Parking Facilities at the end of their economic life cycle, and (e) improve the Parking Facilities so that they comply with this Operating Standard. To ensure the Parking Facilities are operated in a safe manner with a minimum of inconvenience to its patrons, the City will establish and maintain a Preventive Maintenance Program. The City shall conduct maintenance and repairs so as not to limit the availability of all spaces in the Parking Facilities for Stadium Events.

Regular equipment maintenance must be conducted on all parking control equipment in each Parking Facility to ensure that revenues and accounting systems are accurate. Parking equipment must be inspected daily prior to each Stadium

Event. This includes computers, ticket dispensers, gates, counters, credit card and debit card machines. Parking control devices shall be equipped with locks to prevent the devices from being manipulated. In addition, security seals must be in place on every piece of equipment. City or Parking Manager employees will be responsible to visually inspect equipment daily to ensure that all locks and equipment seals are in place.

Inoperable motor vehicles, trailers, storage or similar items shall not be allowed to remain in the Parking Facilities and shall promptly be removed by the City.

Records and controls:

The City will follow prudent policies and procedures so as to secure the parking fee revenues from the Stadium Events and to provide complete and accurate information on parking proceeds and use.

The City shall, and shall cause its parking personnel and Parking Manager (if any) to, liaise with Stadium Operator for the planning of the staffing and other operational issues regarding the Stadium Events, and to review and reconcile all accounting reports and records regarding the event parking activities.

Signage:

The City will be responsible for appropriate directional and informational signage related to the Parking Facilities on and around the Entire Site.

Vehicle Towing Service:

As part of basic service made available to patrons for all MLB Events and Other Events expected to have attendance of at least 5,000 people, the City will be responsible for having a vehicle towing service on-site from at least one hour before through at least two hours after each such Stadium Event.

Parking Procedures Manual:

The City and the Stadium Operator shall develop, at least 90 days prior to opening of the Baseball Stadium, a detailed Parking Procedures Manual that will contain specific information regarding the operation of the Parking Facilities in accordance with this Operating Standard. A Parking Employee Handbook shall be provided to parking personnel (and updated from time to time) with all relevant customer service information on the Baseball Stadium, the Parking Facilities, traffic and directions.

## **CITY PARKING AGREEMENT**

### **EXHIBIT D-1**

#### **INSURANCE REQUIREMENTS MIAMI CITY PARKING CONSTRUCTION PHASE**

##### **I. Commercial General Liability (*PROJECT SPECIFIC*)**

###### **A. Limits of Liability**

###### **Bodily Injury and Property Damage Liability**

Each Occurrence	\$ 1,000,000
General Aggregate Limit	\$ 2,000,000
Products/Completed Operations	\$ 1,000,000
Personal and Advertising Injury	\$ 1,000,000
Medical Payments	\$ 10,000

###### **B. Endorsements Required**

City of Miami, Marlins Stadium Operator, LLC, Marlins Stadium Developer, LLC, Florida Marlins, LP and Miami-Dade County included as an additional insured (*CG 2010 11/85*)

Contingent Liability (Independent Contractors Coverage)

Contractual Liability

Waiver of Subrogation

Premises & Operations Liability

Explosion, Collapse and Underground Hazard

Loading and Unloading

Completed Operations for a period of 10 Years

##### **II. Business Automobile Liability**

###### **A. Limits of Liability**

###### **Bodily Injury and Property Damage Liability**

###### **Combined Single Limit**

Any Auto/Owned Autos/Scheduled Autos

Including Hired, Borrowed or Non-Owned Autos

Any One Accident \$1,000,000

B. Endorsements Required

City of Miami, Marlins Stadium Operator, LLC, Marlins Stadium Developer, LLC, Florida Marlins, LP, and Miami Dade County included as an Additional Insured  
Employees as insureds

**III. Worker's Compensation**

Limits of Liability: meeting the statutory requirements of the State of Florida, including, as applicable, Chapter 440, Florida Statutes.  
Waiver of subrogation

**IV. Employer's Liability**

A. Limits of Liability

\$1,000,000 for bodily injury caused by an accident, each accident.  
\$1,000,000 for bodily injury caused by disease, each employee  
\$1,000,000 for bodily injury caused by disease, policy limit

**V. Umbrella Policy/Excess Liability** *(Excess Following Form/True Excess Following Form/True Umbrella) in excess of the commercial general liability, employer's liability and business automobile liability coverage provided hereunder.*

A. Limits of Liability

Bodily Injury and Property Damage Liability	
Each Occurrence	\$20,000,000
Aggregate	\$20,000,000

B. Endorsements Required

City of Miami, Marlins Stadium Operator LLC, Marlins Stadium Developer, LLC, Florida Marlins, LP and Miami Dade County included as an additional insured  
Increased limits to General Liability, Auto and Employer's Liability Coverage

**VI. Payment and Performance Bond Full Contract Amount**

City of Miami, Marlins Stadium Operator LLC, Marlins Stadium Developer, LLC, Florida Marlins, LP and Miami Dade County included as Obligees.

**VII. Builders' Risk**

Causes of Loss: All Risk-Specific Coverage Project Location

Valuation: Replacement Cost

Deductible: \$25,000 All other Perils

5% maximum on Wind & Hail and Flood

City of Miami, Marlins Stadium Operator, LLC, Marlins Stadium Developer, LLC, Florida Marlins, LP, Marlins Stadium Developer, LLC and Miami Dade County listed as an Additional Insured

**A. Limit/Value at Location or Site: Replacement cost of Parking Facilities, subject to customary sub-limits in the South Florida insurance market**

**B. Coverage Extensions**

- Materials, supplies and similar property owned by others for which you are responsible.
- Full coverage up to policy limits for equipment breakdown.
- Temporary storage/transit coverage.
- Full coverage up to policy limits for site preparation, re-excavation, re-preparation and re-grade in the event of a loss.
- Fences, scaffolding, construction forms coverage and signs
- Valuable papers coverage for blueprints, site plans and similar documents.
- Trees, shrubs, sod, plants while at premises.
- Flood, including inundation, rain, seepage and water damage.
- Earthquake
- Terrorism
- Business Interruption (Delay in Completion /Soft Costs)
- New ordinance or law; reimbursement for any resulting loss of value to the undamaged portion, and required demolition expenses, including construction necessary to repair, rebuild or re-construct damaged parts.
- Temporary structures, cribbing and false work built or erected at construction site.
- Unintentional errors and omissions in reporting clause
- Debris Removal
- Expediting and contractor's extra expense.

## **VIII. Professional Liability**

### **A. Limits of Liability**

At a minimum

Each Claim	\$ 5,000,000
General Aggregate Limit	\$ 5,000,000

The above policies shall provide the City of Miami and each additional insured with written notice of cancellation or material change from the insurer not less than (30) days prior to any such cancellation or material change. Further, coverage for the Additional Insureds shall apply on a primary basis irrespective of any other insurance, whether collectible or not. Any policy deductibles or retentions, whether self-insured or self-funded, shall be the obligation of City and shall not apply to Team Affiliates. All policies shall be endorsed to provide a waiver of subrogation in favor of the "Additional Insureds". City shall furnish Team Affiliates with certificates of insurance evidencing compliance with all insurance provisions noted above prior to the commencement of the Work and annually prior to the expiration of each required insurance policy.

Companies authorized to do business in the State of Florida, with the following qualifications, shall issue all insurance policies required above:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to Financial Strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and /or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.

## **CITY PARKING AGREEMENT**

### **EXHIBIT D-2**

#### **INSURANCE REQUIREMENTS TO BE PROVIDED BY CITY OR PARKING MANAGER FOR THE OPERATIONAL PHASE OF THE PARKING GARAGE FACILITY**

##### **I. Commercial General Liability (*Primary & Non Contributory*)**

###### **A. Limits of Liability**

###### **Bodily Injury and Property Damage Liability**

Each Occurrence	\$1,000,000
General Aggregate Limit	\$2,000,000
Products/Completed Operations	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Damage to Rented Premises	\$300,000
Medical Payments	\$10,000

###### **B. Endorsements Required**

City of Miami, Marlins Stadium Operator, LLC, Florida Marlins, LP and Miami-Dade County included as an additional insured (*CG 2010 11/85*) or its equivalence

Contingent Liability (Independent Contractors Coverage)

Contractual Liability

Waiver of Subrogation

Premises & Operations Liability

Explosion, Collapse and Underground Hazard

Loading and Unloading

##### **II. Business Automobile Liability**

###### **A. Limits of Liability**

###### **Bodily Injury and Property Damage Liability**

###### **Combined Single Limit**

Any Auto/Owned Autos/Scheduled Autos Including Hired, Borrowed or

Non-Owned Autos Any One Accident     \$ 1,000,000



B. Endorsements Required

City of Miami, Marlins Stadium Operator, LLC, Florida Marlins, LP, and  
Miami Dade County included as an Additional Insured  
Employees as insureds

III. **Worker's Compensation**

Limits of Liability: meeting the statutory requirements of the State of  
Florida

Waiver of subrogation

IV. **Employer's Liability**

A. Limits of Liability

\$500,000 for bodily injury caused by an accident, each accident.  
\$500,000 for bodily injury caused by disease, each employee  
\$500,000 for bodily injury caused by disease, policy limit

V. **Umbrella Policy/Excess Liability** (*Excess Following Form/True Excess  
Following Form/True Umbrella*) *in excess of the commercial general  
liability, employer's liability and business automobile liability coverage  
provided hereunder.*

A. Limits of Liability

Bodily Injury and Property Damage Liability	
Each Occurrence	\$10,000,000
Aggregate	\$10,000,000

B. Endorsements Required

City of Miami, Marlins Stadium Operator LLC, Florida Marlins, LP and  
Miami Dade County included as an additional insured  
Increased limits to General Liability, Auto and Employer's Liability  
Coverage

**VI. Garage keeper's Legal Liability (GKL)**

A. Limits of Liability	\$2,000,000
Other than Collision Deductible	\$500/2,500 maximum
Collision Deductible	\$1,000/5,000 maximum

City of Miami, Marlins Stadium Operator LLC, Florida Marlins, LP and Miami Dade County included as an additional insured

**VII. Crime Coverage**

A. Limits of Liability	
Employee Dishonesty including	
Forgery and alteration	\$1,000,000
Money & Securities In & Out Coverage	\$ 25,000

City of Miami, Marlins Stadium Operator LLC, Florida Marlins, LP and Miami Dade County included as Loss Payee on this coverage

**VIII. Property Coverage**

City will provide the County and the Team Affiliates with evidence of insurance affording coverage against "All Risk" of direct physical loss or damage and Time Element coverage, in an amount equal to the replacement cost of the Parking Facilities, including coverage for windstorm, hail, earthquake and flood, subject to sub-limits customarily maintained by the City. This policy shall further provide coverage for contingent business income to protect against potential loss of income under the terms of this Agreement as a result of a casualty to the Stadium Premises from a covered cause of loss.

**IX. Performance Bond (If Applicable) \$ TBD**

City of Miami, Marlins Stadium Operator LLC, Florida Marlins, LP and Miami Dade County included as Obligees.

The above policies shall provide the City of Miami and each additional insured with written notice of cancellation or material change from the insurer not less than (30) days prior to any such cancellation or material change. Further, coverage for the Additional Insureds shall apply on a primary basis irrespective of any other insurance, whether collectible or not. Any policy deductibles or retentions, whether self-insured or self-funded, shall be the obligation of City and shall not apply to Team Affiliates. All policies shall be endorsed to provide a waiver of subrogation in favor of the "Additional Insureds". City shall furnish Team Affiliates with certificates of insurance evidencing compliance with all insurance provisions noted above prior to start of operations of the Parking Facilities and annually prior to the expiration of each required insurance policy.

**Every five years from the date of this Agreement, the Parties will revisit the limits and sub-limits of the policies above and adjust to levels that are reasonable and customary in the South Florida insurance market.**

Companies authorized to do business in the State of Florida, with the following qualifications, shall issue all insurance policies required above:

**The company must be rated no less than "A-" as to management, and no less than "Class VII" as to Financial Strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent. All policies and /or certificates of insurance are subject to review and verification by Risk Management prior to insurance approval.**